FAREWELL TO RETIRING MEMBERS

MR. CHAIRMAN: Hon. Members, three Members of this House from Kerala, namely, Shri E. Balanandan, Shri Vayalar Ravi and Shri M.P.A. Samad Samadani, are retiring on 1st July, 2000 on the completion of their term of office. On the last day of this Session, I take this opportunity to bid them farewell. The retiring Members have made valuable contributions to the proceedings of the House, through their mature and seasoned participation, on many memorable occasions.

I am sure that they will cherish the memory of their association with this august House. I wish them good health, happiness and success in every sphere of life. The House will ever remember their association.

SHRI M. VENKAIAH NAIDU (Karnataka): Sir, we hope that they will come back.

SHRI VAYALAR RAVI (Kerala): Sir, thank you very much for the cooperation. We are thankful to you for your kind words.

SHRI M.P.A. SAMAD SAMADANI (Kerala): Sir, it was really a very pleasant experience. We are very grateful to you for your kind words.

MR. CHAIRMAN: Now, we take up the Information Technology Bill, 2000. Shri Pramod Mahajan.

The Information Technology Bill, 2000

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Sir, I beg to move:

'That the Bill to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Book Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration.'

Sir, the 21st century will be known as a century of information technology. In the last decade of the last century, we saw that revolution in the entire world. With the revolution of information technology, the whole world is changing beyond imagination. Sir, the information technology is not a mere scientific revolution. Yes, technology deals with science, and so, the information technology has a part which can be termed as a scientific revolution. But that will not be the complete description of information technology. Sometimes, when we hear that today's economy is a knowledge-based economy, and with information technology, for the first time, in the history of human society, Saraswati is dominating Laxmi, that is the knowledge-based economy. So, for some people, it seems to be a very, very profitable business venture. If you look for the richest persons all over the world or in India, you will find that 80 per cent of them are those who are heading the IT industry. But the information technology is not a mere scientific revolution nor a profitable business venture. The information technology is actually the fourth generation of human communication. When we came on the earth, the first communication between two human beings was through gestures. When somebody smiled, we did not need any spoken or written language to understand that he was happy. The second invention made in the human society in respect of communication was a spoken language. We could communicate our feelings in a particular spoken language. The third generation came when we invented a written language, a script. You may recall, Sir, when we went from a spoken language to a written language, thousands of books might have been written at that point of time a few hundred years ago and the whole world might have thought as something revolutionary, something written on a piece of paper which communicates to you. Now, Sir, we are reaching the fourth generation of human communication, which is a digital language. So, from gestures, we switched over to spoken words, to written words, and now, we are reaching in a digital language. This is the fastest of any communications we ever invented.

Now I see only the fifth generation of communication, faster than the digital communication, is the human mind. A human mind can travel in a second to USA, faster than even the digital communication, but intellectual property rights of this communication rest with the Almighty. So, we don't have to legislate on the travelling of the mind. But barring that, Sir, this is the fourth generation of human communication. When the

system of communication changes within the human society and we go to an advanced level, this communication needs a legal sanction, some kind of a legal framework. This Bill really is a first, a small but a firm step in the direction to recognise the fourth generation of human communication.

Sir, I will not take much time at this juncture but I would like to say a few things because unfortunately, the media did not pick up what actually the Bill is about. They only fought on a point, whether some rights should be given or should not be given to the police officers, which is really not the basic ethos of this Bill. That is a peripheral thing. I will give you a very small example, Sir. Today, we communicate with each other by fax. It is the fastest way of sending information, but this fax has no legal sanction. Suppose the court wants to send summons or you want to file something in the court. If you file that fax, that fax has no legal sanction. Now we have gone to e-mail. But if the court sends summons to you through fax or e-mail, you can just ignore it because it has no legal sanction. Suppose somebody sends an application to the Government of India or any State Government electronically; it has no legal sanction. Today, if the august House passes this Bill, Sir, e-governance will come into existence. I can tell you only one small example. When the Subrahmanyam Committee Report was written, it was having 2000 pages, and the Parliamentarians naturally wanted it on day one. We could not have the copies of 2000 pages to give. When I made a request to the Lok Sabha Secretariat that I had a CD Room which would have all 2000 pages on it, it would take me half-an-hour to make a few hundred copies and said, "Could I give it in a CD Room?", the Lok Sabha Secretariat politely said, "You can only lay the papers on the Table of the House. You cannot lay the CD Room on the Table of the House! We have only a Papers Laid Committee, and as we don't have a CD Room Laid Committe to understand what you really made, we cannot allow you. You can give additionally the CD Room for the convenience of the Members, but there is no legal sanction." Today, I do not know about that, Sir, but suppose I want to send a parliamentary question by e-mail. The Rajya Sabha Secretariat is very much faster in recognising this IT revolution, and we are doing, but there is no legal sanction. Today, Sir, with this Bill, we are giving a legal sanction to electronic filing, e-mail and anything used in this respect.

There is another most important aspect which was, again, missed by the Press in fighting with the police, and then with me. Now, Sir, the

commerce will change because the communication has changed, and with the change in commerce, when we are living in a spoken world, we give an assurance orally, what we call :

रघुकुल रीत सदा चली आयी,

प्राण जाए पर वचन न जाई।

So, the first signature was zuban. The second signature was *angutha*. The third signature was language. Now from zuban to thumb impression, to written signatures, we have reached a world of digital signatures. Now you don't have to sign a paper. So, digitally, you can make the signature and the whole recognition will come through a digital signature in a digital world, but today, in India, a digital signature is not recognised; it has no legal sanction. Now, Sir, this Bill recognises the digital signature. So, now communication through a digital language will be possible because after the august House gives its blessings to this Bill, the digital signature will become legal in this country.

So, this is really a Bill of e-governance and e-commerce. This is not a Bill to penalise some cyber cafe, or, penalise some computer firms. But, unfortunately, as I said, the basic ethos of this Bill is to make e-commerce and e-governance legal. Now, in order to do that, we have to change our communication system. I presume, in the next five years, we will have to come to Parliament again and again because any law made in written language will have to be rewritten in digital language. That is why we picked this up. There are six major laws in this country which are called the basic, core, Acts. They are: the Indian Penal Code, the Indian Evidence Act, The RBI Act, the Bankers' Book Evidence Act, the General Clauses Act and the CrPC. These are the six major, core, Acts. Out of this, Sir, we have not touched the General Clauses Act. It was never amended; so, we thought there was no need to touch it at this juncture. The CrPC is indirectly coming into this. So, we have not touched that also. This Bill which we will be passing today, basically, deals with the IPC, the Indian Evidence Act, the RBI Act and the Bankers' Book Evidence Act. We ar changing the basic core of this. As I said, this is the first step; a revolutionary step and a firm step. But we will have to come out with meaningful laws like a Digital Copyright Act. Now, the Digital Copyright Act is different from the present Copyright Act. So, we will have to come

out with a Digital Copyright Act. Then, we will have to come out with the Customs Act, the Excise Act, the Sales-tax Act - and many more Acts will follow - in order to complete this transition. I think we are fortunate enough that we are here as legislators, in a period where human communication is turning from a written language to a digital one. I know, technology is always faster than the legislators. I was given the charge of the IT Ministry as well as the Parliamentary Affairs Ministry; simultaneously. I was introduced to the Singapore Prime Minister as a Minister holding both these portfolios together. His comment was, " The two are incompatible with each other. One is a fast moving one and the other is slow moving. I don't really know how you can have a balance between these two Ministries." So, Sir, today, as legislators, we have to go far ahead. *(Interruptions)*. Sir, as Mr. Venkaiah Naidu has interrupted, I can only say that I had written to you and also the Lok Sabha Speaker about this. Recently, on his invitation, I had to gone to Singapore. I saw the world's first e-Parliament there. The Singapore Parliament has a different chair for every member And in the arm-rest they have provided all types of things: telephone, computer, internet, etc. So, the Members can use internet and everything else sitting there only. They can use all the data, while speaking. As they don't throw their computers in their houses, they don't have to worry about carrying the computers. There are so many other things like the e-Court, for example. But this was e-Parliament. I think we should also have to go in that direction where all types of communication can be made available to the Members sitting here. Hopefully, they may use internet, while giving speeches. It is likely to come in ten years from now. The United Nations has adopted a model law in 1997. The USA, UK and the European Union have followed it. We have studied all these laws. We have been drafting and redrafting this Bill for almost a year. This Bill has been drafted and redrafted for about 150 times. So, it was not an easy job; it was not a hurried job. People have been on it for about a year. Finally, we introduced this Bill in the Lok Sabha on December 16. And, on the same day, it was referred to the Standing Committee on Science and Technology, Environment and Forests. Sir, I am extremely grateful to the members of the Standing Committee in general; and the Chairman, Shri Ramachandraiah, in particular, for examining this Bill in depth. Even during the Parliament session, they sat for about 8 - 10 hours a day, before and after the session. And they could submit the report by Friday.

Sir, actually, the credit for making my dream of enacting the cyber law into a reality in this session goes to the Chairman of the Standing Committee on Science and Technology. If he had not submitted the Report, I would not have been able to come to you. He may not be the author of it. But he is the real editor of my book. So, the whole credit goes to him. The Committee has made about 36 recommendations. As I have stated, it has studied the Bill in-depth. The Government had no hesitation in accepting almost all of them. Why I am saying 'almost all of them' is that we have not accepted two minor recommendations which it has made. You might have read in the newspapers that the Standing Committee had asked me to amend the law to make the registration of a portal or a website compulsory. Now, firstly, websites and portals are made in this country in hundreds and thousands and millions. Secondly, it is very easy to see who has made it. A ten-year old boy can create a portal or a website. So, we thought it would not be possible for us to do it. We thought it would be a cumbersome job and it would create hindrances in the IT industry. Therefore, regretfully we did not accept this recommendation. At the same time, it is true that the crime of this century is likely to be the cyber crime. The Committee thought that a cyber cafe would be a den of cyber crime. Therefore, it recommended that the name of everyone who goes to the cyber cafe should be registered and the place where he has sent the message should also be registered. It is true that some cyber cafes may turn into dens of cyber crime. But we thought that it was not a very wise recommendation. We have the STD booths which are used by gangsters. You cannot have their names registered in all the STD booths. There are health clubs or dancing clubs or other kinds of clubs which create problems. It will not be possible to start registration everywhere.So, regretfully we could not accept these two recommendations. Barring these two recommendations, we accepted all the other recommendations. Yesterday, the Lok Sabha unanimously passed this Bill. Now, I am in your hands, Sir. I hope this august House will also pass this Bill unanimously.

The question was proposed.

MR. CHAIRMAN: We have allotted two hours for this. But we have decided that we will continue through the lunch hour so that we can finish our business. Dr. A.R. Kidwai.

SHRI PRAMOD MAHAJAN: Sir, that is my request also. If we skip the lunch hour and continue with the business, we can have an early ending of the day.

SHRI SURESH PACHOURI (Madhya Pradesh): We have no objection.

DR. A.R. KIDWAI (Delhi): Hon. Chairman, Sir, we are happy that the Government has reponded in time to the need of recognising the information technology as a medium for our business transactions and governance, and that it has been able to put up this Bill for approval on the model of the recommendations of the General Assembly of the United Nationas. I am happy that India is going to adopt this measure and has gone ahead in playing a leading role in the development of information technology. On this occasion, I may point out that the Indian science and technology is one of the oldest ones, about 5,000-year old. But, after the industrial revolution, we were left behind because we could not take up the industrial revolution. So, we were left behind. But I am sure, with the electronic information, with the information technology revolution, India will be able to take full advantage of the new changes and developments in modes of transactions and working so that we can go ahead.

We are happy that our educated young men have responded well to the development of software technology; to the development of information technology. They are making their significant contribution in India and, especially abroad. This is one of the areas where India, with its talented technical manpower, can make a significant contribution to the world. Seeing their contribution; even the German Government and the British Government have expressed their desire to avail of India's manpower. This is a very happy situation of which India can take advantage and emerge as one of the leading centres of information technology in the world. It can also make advancement in its trade, business, technology and scientific development and thus get benefited. In this respect, we welcome the introduction of this law. It will speed up business transactions, collection of information on various subjects, etc. Thus, India will be able to keep pace with the development of business, trade, industry and banking. India, with its rich natural resources, with its rich agricultural and water resources, and above all, its talented manpower, technical manpower, can play an important role in the society today. I may point out that India is emerging not only as one of the leading producers of software technology, but also as one of the leading centres for transcription. In the United States, the salaries and wages of the stenographers are very high. They find it convenient to dictate the medical records and other engineering information on telephone, which

is typed in India and transmitted back to them within 24 hours. This is because we have surplus stenographers; we have got surplus manpower. So, India's manpower is being fully utilised on a global scale. With the developments in the means of communication, transportation, the whole world has become a global society. The poeple of one country are able to to interact with the people of other countries. No country or no society can afford to remain in an isolated condition. They have to interact not only in business, in industry, in information technology, in culture, but also in political and economic activities. Therefore, adoption of this legislation will completely change the mode of action and India's progress. Therefore, we recommend that this law should be adopted. At this stage, we do not know what are the flaws in various aspects, but a constant monitoring will be necessary because we know that electronic media is a very useful and effective media for storage of information, for retrieval of information, and also for taking quick decisions. But, at the same time, there are methods by which the entire information can be wiped out, people can be misled and crimes can be committed. Therefore, when we adopt these things, we will also need a monitoring system so that we could detect the flaws, and catch the defaulters at the right time

Particularly, in India, where we have a babu culture, we are interested in piling up files. Even an application form which has to be filled in requires a lot of information about historical and geographical data. Our approach towards utilizing the information technology will have to be changed. Therefore, our education system is also required to be changed. Our working in offices needs to be adjusted to suit our requirements. All these details which are absolutely necessary have to be provided. I am sure the new measure suggests identification of signatures, method of collection of data and interaction between the participants not only through communication but also through telecommunication and visual conferences. This data will be extremely useful. Therefore, it is a very good step. But I feel that we are lacking in the development of hardware and utilization of information technology. While it is advantageous, depending on other countries for hardware and allowing them to have monopoly in the field of hardware, is not good. If we are always on the buying side, it will be a great disadvantage. A country which is advancing and which is contributing so much in the field of software development, why is it lagging behind in hardware? Why is it that Taiwan and Singapore and other small countries

are developing hardware, but India is lagging behind? I think a concerted effort is necessary for the development of hardware technology. We should have our own computers, our own equipments and our own transmission systems. These are the things which require considerable attention. Unless it is done, we will not be able to take full advantage of the new information technology. With these words, I thank you for giving me this opportunity to speak.

श्री ललितभाई मेहता (गुजरात) : सभापति जी, सूचना और प्रौद्योगिकी मंत्री द्वारा लाए गए इस विधेयक का मैं स्वागत करता हूं। आज हम इस क्षेत्र में जिस तेजी से आगे बढ़ रहे हैं, उसको देखते हुए इस क्षेत्र में किसी न किसी कानून का होना आवश्यक था। साइबर क्राइम्स के बारे में जो जी-8 देशों की कांफ्रेंस हुई थी उसमें इसके बारे में चिंता जताई गई थी और इसमें जो बातें कही गई थीं, उन्हें मैं यहां पर उद्धृत करना चाहूंगा :

A Group of Eight (G8) Conference on cyber crime opened here, in Paris, on Monday. Two warnings from French leaders that the phenomenon could not be fought by Internet industry alone but needed the help of Governments and police forces. Touching a sensitive nerve, the French Prime Minister, Lionel Jospin and the Interior Minsiter Jean Pierre declared that the vandalism and crime on Internet could not be tackled only by self-regulation as many people in the industry contended. "New forms of crime are developing sometimes helped by technical characteristics and worldwide dimensions of the net" Jospin said in a message to the Conference. They call for a mobilization and collective response on a global scale. This is the first and foremost responsibility for public authorities in each country."

सभापति जी, हम अपने कदम विश्व के साथ बढ़ाना चाहते हैं। हमारे कदम विश्व के साथ मिलें, ऐसी शुभ भावना से हम आगे बढ़ रहे हैं और सूचना तथा प्रौद्योगिकी क्षेत्र में जिस तरह से विकास हो रहा है जैसे कि मंत्री जी ने बताया कि अब हम डिजिटल सिग्नेचर्स को भी लीगल सैंक्शन देने जा रहे हैं, जो समय की आवश्यकता है। इसके साथ ई-गवर्नेंस, ई-मेल, ई-कामर्स जैसे जैसे बढ़ते जाएंगे वैसे वैसे इसका प्रभाव राष्ट्रीय और अंतराष्ट्रीय स्तर पर होने वाला है। इसलिए इसका नियमन बहुत जरूरी हो गया है। आर्थिक अपराधों को हम कैसे रोकें, इस पर विकसित देशों में भी अभी सहमति नहीं हो पाई है लेकिन वहां पर भी सब प्रावधान कर रहे हैं। अभी थोड़े दिन पहले जो एक बात हमारे देश में हुई भाभा एटोमिक रिसर्च सेंटर के सिस्टम में कोई हैकर आ गया, पृथ्वी मिसाइल का डाटा हेल्ड हुआ, इसके पीछे

कौन था, यह जानना जरूरी होगा। इसलिए ऐसा प्रावधान किया जाना चाहिये जिसके तहत इस तरह के अपराधियों का पता लगाया जा सके। इस बिल में बहुत सारे प्रावधान किये गये हैं। किसी दूसरे के कंप्यूटर सोर्स को टेंपर करने वालों को तीन साल की कैद और दो लाख रुपये का जुर्माना किये जाने का प्रावधान है। इसका स्वागत करना चाहिये। कंप्यूटर रिलेटिड क्राइम के लिए साइबर रेगुलेशन एपीलेट ट्रिब्यूनल का भी प्रावधान इस बिल में किया गया है, इसका भी स्वागत किया जाना चाहिये। ऐसा क्राइम करने वालों को किसी कंपनसेशन के लिए सिविल कोर्ट में नहीं जाना होगा, इसका भी स्वागत करना चाहिये। इंटरनेट पर हमारे देश की संस्कृति, हमारे जीवन के मूल्यों के विपरीत जो बातें आती हैं, उनको कैसे हम कंट्रोल करेंगे, इसके लिए धारा 66 का प्रावधान किया गया है। इसका भी स्वागत करना चाहिये। आज जो बातें यहां पर लाई गई हैं, इनफारमेशन टेक नोलोजी के द्वारा जो भी चित्र हमारे सामने आया है, सूचना संप्रेषण का यह नया तंत्र हमारे सामने आया है, इसके बारे में हम सर्वसम्मत हैं लेकिन दुनिया के विकसित देशों में इस क्षेत्र में कई जानी-मानी अथारिटीज़ ने जो कुछ बातें बताई हैं, उनको भी हमें इस बिल को पारित करते समय, एक्ट बनाते समय ध्यान में रखना होगा। जो बातें सामने आई हैं उसमें यह बात है कि यह सूचना संप्रेषण का जो नया तंत्र है, यह व्यक्ति को सामाजिक और मानवीय परिवेश से काटता है। फ्री विश्वविद्यालय बर्लिन के प्रोफेसर लुस इब्रिंग ने कहा कि इंटरनेट ने लोगों को अलग-थलग करना शुरू कर दिया है। सेंटफोर्ड के राजनीतिक विज्ञानी डा. नार्मन नी ने अपने एक ओब्ज़रवेशन में कहा कि आन लाइन इंटरनेट पर गुजारने वाले लोग अपने असली जीवन में आफ लाइन हो जाते हैं। जो व्यक्ति पांच घंटे इंटरनेट पर बैठते हैं, उनका मानवीय स्वभाव बदलता हुआ दिखाई देता है। प्रो. नी का सर्वेक्षण बताता है कि इंटरनेट का प्रयोग करने वाले 13 परसेंट लोग परिवारों से कट गये हैं, 26 परसेंट दोस्तों से कट गये हैं और 40 परसेंट लोगों ने अपने परिवारों और दोस्तों से टेलीफोन पर बात करना भी कम कर दिया है। डा. इब्रीग के एक और निरीक्षण के अनुसार संचार माध्यमों का विकास हमारे सामने है परन्तु इसके साथ साथ मानवीय संवेदना की दशा और दिशा में कमी आई है। इंडियाना विश्वविद्यालय साऊथ वेस्ट के मनोविज्ञान विभाग के प्रोफेसर बर्नाडो कारडेसी ने ओब्ज़रवेशन किया है कि ई-मेल आदमी के रुबरू संप्रेषण के लिए एक सामाजिक खतरा बन रहा है। इलेक्ट्रोनिक संप्रेषण माध्यम ने हमारे सहनशीलता के तंतुओं पर विपरीत प्रभाव डालना शुरु कर दिया है। हावर्ड फिनबर्ग ने ऐसा ओब्ज़रवेशन किया है कि लम्बे समय तक इंटरनेट का उपयोग करने के लिए बैठना सामाजिक भाई-चारे को खत्म करना है।

इंटरनेट का उपयोग करने वाले लोग जिंदगी के प्राकृतिक वातावरण में मानवीय स्वभाव के लिए अति आवश्यक समय को गंवा रहे हैं। सभापति जी, 1968 के साल में एरिक

फ्रोम नाम के एक जाने माने जो जर्मन फिलासफर थे उन्होंने 'नयी दिशा की खोज' करके एक पुस्तक लिखी थी। इसमें 2000 साल के आते आते कैसी परिस्थिति निर्मित होगी इसका अवलोकन किया था। उसमें उन्होंने यह बताया कि मानवीय संवेदना और व्यक्तिगत भावनाओं का ह्रास होने के साथ विचार शून्यता के कारण मौलिक चिंतन का अभाव और सर्जनात्मक वृत्ति का हनन तथा सामाजिक जीवन में उदासीनता आने की पूरा संभावना है। इन सभी बातों को ध्यान में रखते हुए और हमारी जो आवश्यकताएं हैं उनको पूरा करने के साथ साथ हमारे सामाजिक जीवन पर इसका जो प्रभाव पड़ने वाला है, हमारे व्यक्तिगत जीवन पर जो प्रभाव पड़ने वाला है, हमारे देश की सांस्कृतिक विरासत जो है, हमारे जीवन के जो मूल्य हैं, हमारी जो सांस्कृतिक धरोहर है इनको ध्यान में रखते हुए हम इसका श्रेष्ठतम उपयोग कैसे करें, ये ही बातें रखकर आपने मौका दिया इसके लिए आपको धन्यवाद करते हुए मैं अपनी बात समाप्त करता हूं। आभार।

PROF. (SHRIMATI) BHARATI RAY (West Bengal): Mr. Chairman, Sir, this is a novel Bill because it deals with a novel situation. That is why the Bill is, at once, welcome and worrisome. We know that globalisation has set in though we may not like all its ways. We know we have to keep pace with the outside world; at the same time, we do not know where we are heading to and what will be the impact of this Bill. We have to look at this Bill from both the perspectives. This is an information technology legislation. Without legislation, indiscriminate use of technology and cyber space may cause havoc. After all, a dot. com. company has no physical existence; its address is in space. In network parlance, they say it is not a brick and mortar company, it is a click, click company. That is why to regulate its activities, its technological operations, its financial transactions, its registration, a powerful legislation is needed. The purposes of the proposed Bill are briefly (a) to ensure a secure e-commerce and the safety of the people who are transacting this business and (b) to enact cyber laws. In my view, a shift from a paper-based economy to an e-economy raises three issues - recognition, authentication and enforcement. This Bill aims to address these three issues and, therefore, laws have been proposed (a) to ensure the recognition and authentication of records and (b) to minimize the incidence of forgery and (c) to provide penalties for contravention of rules. The key point, as the Minister has pointed out, is the legal recognition of a transaction done through digital signatures and electronic communication. Business and commerce can be transacted through certified digital signatures, without, very importantly, the aid of a

mailed paper signature. There are mechanisms, in this Bill, for the authentication of the signature, with the concept of private key and public key and laws to prevent misuse, particularly, propagation of pornography and terrorist activities. E-commerce, I agree, is a sunrise industry. It is critical to evolve futuristic laws in the area. Geographical boundaries are meaningless. Therefore, an international law has to be evolved. This Bill, on its positive side, has taken into consideration the various world-standard Acts.

The Standing Committee also suggested some amendments. I thank the hon. Minister for accepting them. Yet a few questions remain.

There is one critical area about which the Bill is silent. It is not clear, at all, how to deal with transactions or how to handle issues arising out of transactions where one party is not subject to Indian e-commerce laws. When a foreignor contravenes our rules - and some of them might - what should we do? On this very crucial point, I think, there is no answer either in the Bill or in the various amendments offered by the hon. Minister.

Then, I have strong reservations on the second point. I do not agree at all with clause 79(1). I do not think that any Police Officer should have the right to arrest anyone without warrant. The hon. Minister mentioned that it will be the periphery; but periphery is important as much as the core. The purpose is important; but the implementation is important too. It is true, if the Police Officer does not have this power, many offenders will escape. But if they have this power, many innocent people will be harassed. In a democracy, the option is clear, the choice is clear. We do not want even one innocent man to suffer. Monitoring is very necessary, as the hon. Member, Shri A. R. Kidwai, mentioned. But that does not mean that too much power should be given to the Police. On the issue of monitoring and cyber-crime, I will again request the hon. Minister to reconsider the Standing Committee's suggestion to insert a clause after clause 73 requiring cyber-cafes to furnish information to the authorities. Sir, it is a click-click company; Any person hosting a website must keep a detailed record of the website and make them available to the authorities, if required - you can add here 'if required' - and, if required, they must submit these records to the authorities or the Controller; it is necessary to check its fraudulant use or misuse, use for pornography, use for terrorist activities or whatever. If you don't know the address, what would you do? If I have

today Bharati.com company, you do not know about it; it exists only in space. You must know who the person is, who floated the website.

Another concern relates to the issue of convergence of telecommunication, broadcasting and information technology. Convergence of technologies will result in dilution of various sectors and deletion of boundaries. E-commerce laws, for example, and telecommunication laws are different. This Bill does not take into account the fact that there is a strong trend towards convergence of technologies. Of course, the hon. Minister mentioned that he has revised it. But you will have to revise it again and again. Your Telegraph Act is under revision. If it comes into conflict with this law, what will you do? How many times will you amend then?

Lastly, I congratulate the hon. Minister for accepting the suggestion of the Standing Committee regarding inclusion of 'voice' in clause 2(u). Actually, information technology is a means of transfering information; but 'voice' is the most important means. The experts say that three things are never similar in two individuals, the fingerprint, the voice and the cornea of the eye. In future, I think, the 'voice' and the cornea will be so programmed that you can open a door or a chest by your voice or by looking with eyes wide open.

Sir, the future certainly is exciting. But the future is also uncertain. This Bill is a step in the exciting, uncertain, unchartered and promising future.

[The Vice-Chairman (Shri Adhik Shirodkar) in the Chair]

SHRI K. RAHMAN KHAN (Karnataka): Mr. Vice-Chairman, Sir, at the outset, I welcome the Information Technology Bill. I congratulate the hon. Minister for bringing this important piece of legislation. As he rightly said, 21st century is a century of information technology. Probably, the new millennium will see a total change in every aspect of our life. He said, information technology is the fourth generation; but I would call it a second industrial revolution. I would also like to say that, as a country, we are late in bringing this legislation. The process of bringing this legislation in other countries of the world started as early as in 1960 because in those countries, the discussion about computer misuse was much earlier.

We have brought in this legislation for two purposes. One is to legalise certain transactions, like the digital signatures, recognition of digital documents; and, the second is to regulate the offences which may be committed in this revolution which has come up in the information technology. So, the two broad aspects of this legislation are to promote and to regulate the information technology industry. At the same time, this is aimed at regulating the offences which may be committed, which are being committed, in the information technology. The endangerment of the privacy was discussed in 1970 by various developed countries in Europe and America. The computer-specific economic crimes, especially computer manipulation, computer sabotage, computer espionage and software piracy were also discussed. Further, it was demonstrated repeatedly that, along with the advancement of information technology into new areas of life, criminals also can use computers for almost all offences. It is not only for digital signatures; we are using various technologies of information. There is misuse of ATM cards also. ATM cards are one of the new systems of banking. We have the misuse of telephone network. We also have computer extortions.

We are now going into new areas of banking and e-commerce. Rightly, while moving the Bill, the Minister has said that he has not yet taken all aspects into consideration because this is a growing field. We will not be able to visualise, right now, as to what offences would be committed in the future. Human mind is both constructive and destructive. We are seeing how destructive is the human mind. Very recently, we have seen it in the spread of bugs. It could be done even by a ten-year-old or a fifteen-year-old boy. It does not require a long period of education or a research or Ph.D. to indulge in all these crimes. So, we have to be alive to the situation. From that point of view, the Minister may have to come here in every Session, probably, for amendment of this IT Bill.

What I feel is, this should have been a comprehensive legislation. I am not going into the details of the various regulatory provisions like digital key, certification and various other things. These are technical aspects.

I am sure, the Standing Committee has gone into all these details and has given its recommendations. There are two issues which, I feel, require a thinking on the part of the hon. Minister. Here, we are talking about the software development, hardware development, the crimes that are

going to be committed and the certification. Sir, Information Technology profession will become a separate profession, and there is a need for regulating this profession. Now, you are regulating the Digital Signature. You are regulating the crimes and offences. But, how are you going to regulate the profession which is doing all these things? For example, we have the Medical Council of India for regulating doctors. We have the Engineering Association for regulating the engineers. But, how are you going to regulate this profession? You are creating a digital certifier. You are giving a licence to those who issue the digital key and the certificate. What should be their qualification? Who are those people issuing certificate! Today, the entire I.T. is mushrooming in every nook and corner of the country. In every corner you will find a computer man or there is a computer industry or a computer institute which are issuing certificates. This is such a dangerous technology that it does not require anything but a computer. You can have access to any part of the world. With the advent of Internet, you have, absolutely, no control on this in spite of having all this legislation, particularly - as you have correctly said - on pornography and other things. Sir, absolutely, you have no control on Internet. As the hon. Minister rightly said that the registration of website was recommended by the Committee.

[THE DEPUTY CHAIRMAN in the Chair]

I appreciate the concern of the Minister. It is difficult for the Government to regulate such things. They may create a separate regulatory authority because there is multiplication and millions of websites are there. In this scenario, it is very difficult to have control over it. But the question is, how are you going to implement it? Madam Deputy Chairperson, the legal problem, mainly, occurs in areas of statutory powers of the prosecuting authorities and corresponding duties of the witnesses. In many countries, problems exist whether and to what extent, prosecuting authorities have the right to search computer systems, to seize the data, to intercept and record telecommunications between computers, and to have telecommunication data on electronically supervised computers. A particular problem represents accessing the data stored at another location, possibly even abroad. These are all the problems which have not been addressed to, probably, because, as the Minister has rightly said, it is a small measure. It is a measure in the right direction. We accept that. But, I would like to request the hon. Minister that a lot needs to be done. This

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legislation will be the first step. The hon. Minister has referred, while framing the legislation, that they had gone into the recommendations made by the U.N. on this subject and the recommendations made by the European Union. But, you look into the various other legislations made by other countries. This is a combined legislation.

I feel, a single legislation is not possible for controlling and monitoring the offences and regulation of the IT. In fact, I have sufficient data to show how different countries, at different levels, had started regulating their IT much earlier. Even a country like Philippines started regulating its information technology as early as in 1970.

THE DEPUTY CHAIRMAN: Yet they have problems, the 'love-bug' and so on.

SHRI K. RAHMAN KHAN: Yes, that is a recent problem. That is exactly what I wanted to... *(Interruptions)*

SHRI M. VENKAIAH NAIDU (Karnataka): How many pairs of sandals and shoes were there... *(Interruptions)*

THE DEPUTY CHAIRMAN: That has nothing to do with the love-bug that I am referring to.

SHRI K. RAHMAN KHAN: So, what I would like to stress upon is that the question of intellectual property has not been touched in this Bill. So far as intellectually property is concerned, we need a separate legislation. In the cyber law -- whether you call it a information technology law, or, a cyber law - the three areas which we have to deal with are, accepting digital type of documents, creation of software, computer crimes and crimes that will generate because of that. So, there is a growing concern, as to who owns the intellectual property of domains names, software programming and websites. In fact, HTML coding websites are also in question. Even that registration is also in question. So, one point is, how we are going to prevent all this. The second point is the national security. Now, the penalty that has been imposed is too little. However, there is an impression that the law is draconian, but all that depends on its implementation - how the policemen will act, and so on. But the penalty - three years imprisonment and a fine of Rs. two lakhs - for the offence is too little. One can easily

commit any crime because the penalty is too little. Today, we cannot imagine the crimes that could be committed because of the information technology, particularly, when we are legalising banking transactions, when we are legalising documents, when we are legalising contracts. In such a situation, penalty which has been prescribed is very little. A software engineer or a person can easily commit any crime and then pay the penalty and escape. So, Madam Deputy Chairman, I would like to caution the Government, and I would also like to request the hon. Minister that there is need for a deliberation. That is why we were saying, "Though there is an urgent need for this Bill, we should have deliberated on it a little more. We should have a discussion." Of course, the Standing Committee has done that job. But, I consider this piece of legislation much more important than any type of legislation which you have had because it affects everybody's life. Today, we think that a computer is only an elitist approach, but a day will come in another year or two, when every house will have a computer, and our life, somehow or the other, will be attached to computers, and we would not be able to live without a computer, as we cannot live without a car, or, without a vehicle today. We cannot move without our own vehicle. A day will come when we will have to live with computers; we will have to live with computer crimes; we will have to deal with computers.

Whether we like it or not, e-commerce is going to be a reality. We are going to make our purchases, sitting in the house. It may look like a novel idea, but it is going to be a reality. When such is the situation, a very onerous responsibility is cast on Parliament to debate the entire issue and have a proper piece of legislation, looking into the whole arena. Though I welcome this Bill, I request the hon. Minister to go ahead with the suggestions that have been made because everything depends, Madam Deputy Chairman, on the regulations which you are going to have; but in this Act nothing has been mentioned. Therefore, you have to make the rules. You have mentioned that the rules will be framed. You are going to frame the rules. Madam, a lot of care has to be taken while framing the rules because the success of the Act depends on the adopted rules and how the rules are framed. So, Madam Deputy Chairman, no doubt, the industry has welcomed this Bill, the computer and the information technology world has welcomed the Bill, but I feel that they have not put in their proper inputs, they have also not done their work properly as to what should be within the Bill. There is a recent spurt in the information technology.

Though it is not related to the Bill, I would like to point out as to what happened to the IT shares. Recently, in the "Economic Times", there was a news that some of the cyber companies are used - man's creations - to convert black money into white money. You create a cyber company, a dot.com company, but because export is through e-commerce, you cannot check the transfer because it is just transfer of data. Sitting in America, a person can transfer a data and you have no control over the data, as to what data is being transferred because the secrecy agreement is there and he will not disclose the data. So, the data is transferred and black money is converted into white money, and the country is getting it as an export.

This is one of the reports that have appeared in the "Economic Times" recently. So, Madam, such companies are coming. The economic crimes can also be committed in a bigger way. We will have to forget the economic crimes that we have seen; in the cyber age, the economist crimes will be much more. So, while welcoming the Bill, I also caution the hon. Minister. Madam, I am sure, this Ministry will become the most coveted Ministry. But then, probably, it will also become the most I would not like to use that word - 'controversial Ministry'. But I am sure with the given will - because there is no other alternative, this legislation has to be there. I welcome this legislation.

THE DEPUTY CHAIRMAN : How is it controversial?

SHRI K. RAHMAN KHAN : He will become controversial.

SHRI RAMA MUNI REDDY SIRIGIREDDY (Andhra Pradesh): Thank you, Madam Deputy Chairman, for having given me an opportunity to speak on this important piece of legislation. I also congratulate the Minister for having introduced this essential and revolutionary Bill with foresight. It is, of course, one of the constructive steps taken by the NDA Government towards a bright and prosperous future in the present world of competition.

We are, for the first time, enacting cyber laws in the country. Internet and electronic commerce are the two most important developments of the 20th century, which have brought a revolution in the way we conduct transactions and share and store information. The technological developments in the concept of computing, networking and software engineering have helped in the transition from paper to paperless transactions.

Today, Internet is the third largest industry in the world after banking and health care, and I have no doubt that it will overtake the banking sector within a couple of years or so. In our country, we had a mere 40,000 Internet subscribers in 1997, and, according to the statistics available with me, in December, 1999, the number of subscribers were around 6.9 lakhs, and by 2002, it is expected that 85 lakh persons will have access to Internet. Not only this, the revenue is also expected to increase from a mere US $1.96 million in 1999 to a whopping US $600 million in 2003. Sir, the proliferation....*(Interruptions)* ....Sorry.

SHRI SANGH PRIYA GAUTAM (Uttar Pradesh): Chairman is a common gender.

THE DEPUTY CHAIRMAN: But the person in the Chair is not a common gender.

SHRI RAMA MUNI REDDY SIRIGIREDDY: Madam, the proliferation of the information technology, Internet and e-commerce has raised a number of legal issues. To combat these, we need a certain legal framework, and it is with that intention and to meet the emerging requirements of the use of information technology, particularly in business and in other day-to-day activities, that the Government of India has brought before this House the Information Technology Bill, 2000, for the consideration of this House. The Information Technology Bill is a commendable step forward in taking India into the electronic era. I am sure, this would become an effective legislation enabling the electronic information, records and documents to get legal acceptability and would really revolutionize the business environment, and the benefits of the resultant progress and development would reach a large section of our country's population. The Government of India has also created a Rs.100-crore National Venture Capital Fund to facilitate the availability of venture capital to promising talent in this rapidly growing industry. It is a welcome step.

Here, I need not dwell upon the steps that have been taken by our Chief Minister, Shri Chandrababu Naidu, with regard to spreading of information technology to the nook and corner of our State since the whole world knows about it. But, I would just like to mention here that the Government of Andhra Pradesh has been promoting the use of information technology for better governance, for improving the speed, convenience,

accessibility, responsiveness and transparency, for delivering the best quality of services to the people. We are also in the process of establishing a "Science City" in Hyderabad.

Madam, due to paucity of time, I am not going into the details of the Bill but I just would like to touch upon a few points. I hope the hon. Minister will respond to my queries while replying to the debate. I am also happy to note that, except one or two recommendations made by the Parliamentary Standing Committee on Science and Technology in its 79th Report on the I.T. Bill, the Government has accepted all the recommendations made by the Committee. But, I would like to know the reasons for not accepting the recommendations of the Committee pertaining to compulsory registration of websites and portals hosted in India and the mandatory maintenance of records by cyber-cafe owners. I request the hon. Minister, after enacting this law, to take advice of experts in this field, in regard to compulsory registration of websites and portals hosted in India and the mandatory maintenance of records by cyber-cafe owners.

The Bill provides for amendment of the IPC, the Indian Evidence Act, the Banker's Book Evidence Act, the Reserve Bank of India Act etc., whereas there has not been a single mention about the amendments that are required to the Law of Contracts, the Transfer of Property Act, the Registration Act and the Stamp Act. Here, the point is that the Law of Contracts imposes obligations on both the parties to a contract, but, if you see clause 2 (1) (v) of the Bill, it says, "intermediary" with respect to any particular electronic message means any person who, on behalf of another person, receives, stores or transmits that message or provides any service with respect to that message.

Clause 2 (l) (z) which says, "originator" means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person, but does not include an 'intermediary', which leave aside 'intermediaries' and 'originators' from any obligation from the subscribers. Will the hon. Minister give us an assurance that the intermediaries and originators would not pose any hazards to the subscribers and to the electronic record? No. Because, the present law does not foresee this eventuality.

Clause 17 of the Bill deals with the appointment of the Controller. I would like to point out that for the size of this country, I do not think one Controller is sufficient. He may not be able to cope with the amount of work that he is going to be burdened with. Hence, I suggest that, at least, one Controller should be appointed in each zone and I request that the Southern Zone Controller's office should be located at Hyderabad keeping in view the technological advances made by Andhra Pradesh and let there be a Controller-General at the Central level to co-ordinate with all the Controllers.

Clause 25 of the Bill says that the Controller may revoke the licence of a certifying authority. But here, the point is, what would be the status of Digital Signature Certificate issued prior to the suspension of licence? This may please be clarified to the House.

Madam, Chapter IX provides penalty for damaging computer, computer systems, etc., to the tune of Rs.10,00,000. There is also a penalty if a person fails to furnish information, records, report, etc. And you have provided only Rs.25,000 as compensation to the aggrieved party. I think, this is neither a penalty nor a universally appropriate compensation. Hence, I request the hon. Minister to pay compensation to the affected party to the extent of damages he suffered or a little bit higher than the damage caused because he undergoes a lot of agony and mental torture in the whole process.

Madam, although Clause 76 of Chapter XI appears to be an enabling provision, it is not clear whether the provision of the IT Bill would affect the rights of cop right owners under the Copyright Act. I would also like to know whether the Government is thinking of bringing in any separate amendments to the Copyright Act. I would also like to know from the hon. Minister as to when he is going to bring forth a "Digital Copyright Act".

Clause 77 of the Bill says, "Notwithstanding anything contained in the code of Criminal Procedure, 1973, a police officer not below the rank of the Deputy Superintendent of Police shall investigate any offence under this Act.." Here, according to this provision, the power to investigate any cyber crime is vested with the DSP and above. I do not think, it is proper that only a DSP can investigate cyber crimes and not others. Here, what is required is competence to investigate a particular crime, but not the rank. Rank has nothing to do with investigation. I agree that any police officer dealing with

cyber crimes should have knowledge of computer, computer programming and other related expertise. Madam, a Circle Inspector or an Inspector is also competent to investigate a cyber crime, provided they have knowledge of computer, knowledge of computer programming, etc. If they are given the requisite training, I am sure, they will be able to deal with cyber crimes effectively. Therefore, I suggest that the words "not below the rank of DSP" may be replaced with the words, "not below the rank of an Inspector who has computer knowledge and expertise." Or, a Task Force could also be appointed to deal with cyber crimes in the country. With regard to punishment, I would like to submit that the punishment prescribed is very low considering the immense damage that can be caused by just pressing a computer key. Hence, my suggestion, through you, to the hon. Minister is the punishment should be commensurate with the quantum of cyber crime.

The last point I would like to know from the Government is : What is the remedy available to a consumer in case of a fraud committed through e-commerce? May I know what steps have been taken by the Ministry so far to establish an interface between the Government, the industry and the community so that e-delivery of the services, especially in social sectors, can be made without any obstacles?

Madam, these are some of the important points and suggestions that I wanted to bring to the attention of the Government. I hope the Minister will respond to my queries while replying to the debate. Thank you, Madam.

THE DEPUTY CHAIRMAN: Good speech.

Now, Mr. Viduthalai Virumbi. I hope, today, we won't have any clash of civilization from Tamil Nadu because I do not think there is any precedent of any such Bill in the past. There is no previous record of Tamil Nadu having anything of that.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Yesterday's incident, we have forgotten today.

Madam Deputy Chairperson, I stand to support the Information Technology Bill even though there are some lacunae in that. While introducing the Bill, the hon. Minister has said that now it has come to the fourth generation-gesture, spoken language, written language and digital

From the other side, Mr. Rahman Khan, while he was speaking, clearly said that it is a second industrial revolution. I stand by him. It is a second revolution. But, at the same time, even though we have reached the digital language, the gesture language cannot be eradicated and abolished in the world. So far as the teen age formula is concerned, the gesture language will be there. Madam, the hon. Minister accepts it because he has passed through the teen language time. Information technology is required not only for commerce, not only for other activities of our day-to-day life, but even for the security and safety of the country. For example, we know that there was an arms-dropping incident in Purulia. At that time, what we were informed by the then Government was, we had received information from Britain that there was going to be an arms-dropping either in Bihar or in West Bengal or in some State in the North-East. We had got that information through the electronic media. That information, they had provided to the North-Eastern States only by post. Before the post reached the States, arms had already been dropped. In that context, I feel, even for the security of the country, information technology development is essential.

Madam, I would give another example. When a telegram reached the US Government during the Second World War, they were not able to get the proper interpretation of the telegram that they had received in a different language and that resulted in the drop of atom bombs in Hiroshima and Nagasaki. Therefore, information technology development throughout the globe is a welcome signal.

The Bill is a deterrent to hackers. If anybody wants to destroy a web site, it is a deterrent for him. But, to develop a deterrent activity, we may have to develop our own technology from where the technology has surpassed us. As far as computer technology, computer knowledge, is concerned, we can hold our head high because even the Bill Gates company has 36 per cent of the people working in that company reported to have the Indian origin. Some people talk about brain-drain. The brain has not drained into the drainage. It has gone to the States where they can get a proper remuneration. Through this information technology, as against the targeted income, for this decade, of some millions, we are expecting to turn over about 100 billion dollars in the next decade.

Therefore, if we want to increase our external trade and the foreign exchange reserves, from that angle also, this Bill is essential,

because instead of trade in goods, we are able to have trade in services through which we can generate a lot of income. But, at the same time, I want some clarifications from the Minister. Sir, in clause 86, under the caption 'Removal of Difficulties', it has been stated like this. I quote: "If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to be necessary or expedient for removing the difficulty." But from the explanation clause, we are not able to make out as to what is meant by a provision. The rule is different. If the rules are going to be added, this clause could not have been included in this Bill. If this clause is incorporated, it is not indicating mere rules and regulations. The provision needs some other clauses. Are you going to add some more clauses in the Bill that is going to be enacted today? In that case, in what context have you used the word 'provision'? In case you want to add more clauses, you will have to get the approval of the Parliament. That is regarding clause 86. Now, I come to clause 78 which relates to the power of police officers. I am not objecting to the powers of police officers. There should be some check. Otherwise, those who abuse the e-commerce, cannot be checked. Now, I come to clause 80, sub-clause 3, which states: "The provisions of the Code of Criminal Procedure, 1973, shall, subject to the provisions of this section, apply, so far as maybe, in relation to any entry, search or arrest, made under this section." That means they are not going to touch other sections in the Code of Criminal Procedure.

After having gone through sub-clause 3 of clause 80, I come to sub-clause 3 of clause 66. This is regarding the punishment for publishing the information which is obscene in electronic form. It is all right. I totally agree with it because the Associated Chambers of Commerce and Industry says that it is about 5 per cent of the total information available on the internet. There are two areas. Firstly, the punishment for publishing the information which is obscene in electronic form has been provided in it. But it has left out the other thing in the Bill, that is, the punishment for publishing the terrorist literature. Anybody who has published or is publishing the information which is obscene in electronic form, then this provision will be attracted. *(Interruptions)* Clause 67 will cover the point which has been raised by Shri Vayalar Ravi. Clause 68(1) is regarding the power of the controller to give directions. I want to know from the Minister

that if any terrorist literature is published, will it be covered under clause 67?

SHRI VAYALAR RAVI (Kerala) : Mr. Virumbi, clause 67 is about punishment.

SHRI S. VIDUTHALAI VIRUMBI: But I am referring to two areas. Number one, I am referring to the obscene activities for which there is a provision for punishment. Secondly, I am referring to the publishing of terrorist literature. What punishment have you provided in the Bill for this activity? To the best of my knowledge, there is no provision in the Bill in this regard. May be, it is there. If there is any other provision made, at the time of reply, you can explain it to us.

Apart from that, there is a clause, 65A, in the Amendment that has been taken up in the Lok Sabha and that has also been approved. I quote Clause 65A:

"65A. (1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hacking.

(2) Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both."

My argument is this. Recently, there was one case of Lovebug. That cost about Rs.4,400 crores. Because of the mischief done by two individuals, it cost, globally, Rs.4,400 crores. Rs.4,400 crores have been lost throughout the world. Several countries have lost that amount. I want to know whether the punishment mentioned for that crime in this Bill is adequate. If somebody indulges in such a crime in India and if we lose Rs.4,400 crores, do you think that a penalty of Rs.2 lakhs, or something like that, is enough for committing such a crime? Suppose it is only Rs.2 lakhs. What I feel is this. If we have put some important matter on the computer, that can be destroyed by some of the people who really want or intend to destroy that. Some people across the country, those who want to destroy that information, can buy some people and ask them to do so saying, "after all, after two or three years, we will provide you two lakhs of rupees; you

go for two years' imprisonment." What they want to achieve or what they intend to achieve, they may achieve. Therefore, I want to know whether the penalty that you are proposing for such a crime is enough, or whether some other provision has to be made. Suppose somebody indulges in a crime or somebody commits a mistake voluntarily. That is different from an error which occurs inadvertently. If a mistake is committed voluntarily, it is a cognizable offence. If anybody commits a cognizable offence, then the amount of penalty should be more than the amount of loss incurred on account of that action. That should be the penalty, not two or three lakhs of rupees. Along with Clause 65A, Clause 65B should also be included.

Madam, the National Task on Information Technology was constituted under the leadership of Shri Jaswant Singh. It had actually made 108 recommendations. Out of 108, only 56 recommendations were implemented. Out of the balance 52, 22 were ongoing; 27 were not implemented and three were not accepted. We want the reasons for this; why 27 recommendations have not been implemented and why three recommendations have not been accepted. What are the reasons for not accepting the recommendations by the Ministry of Information Technology? Please enlighten us on this....*(Interruptions)*... Madam, just one minute. There is a very important point. As regards the non-implementation of these recommendations, what we find is that there is a difference of opinion between the Ministry of Information Technology and the Department of Telecommunications. I tell you, Madam, that providing international list circuits directly to Internet companies is being stalled by the Department of Telecommunications. I want to know whether it is a fact or not. That is number one. Number two, by January 26, 2000, Internet access to all the district headquarters, as actually targeted by the Government, not implemented so far. What is the reason behind this? This is due to the lack of work by the Department of Telecommunication. That is what we understand. Number three, I quote from "The Hindu", dated 21 April, 2000. It is stated at page 9, under the caption "DoT 'hampers' spread of IT to protect VSNL".

I quote:

"The IT Ministry is of the opinion that the DoT has failed to allow software technology parks to directly send their bandwidth requirement directly to INTELSAT for release of bandwidth without routing through VSNL."

I feel that if there is a difference of opinion between the Ministry of Information Technology and the Department of Telecommunications, then, it would become hard for us to go through it. I want to say that as far as information technology is concerned, most of the States are seized of the matter and they are trying to develop it. In our State also, approximately, Rs. 338 crores have already been spent for the construction of technology parks. They are constructing a separate technology park only for the purpose of information, and it is going to be opened very soon. We are pioneers in this, and other States like Andhra Pradesh are also competing with us. In the North-Eastern States, around 436 districts are to be connected by the internet. It has not yet been implemented. I feel that this is only a first step in that direction. Although it is not a comprehensive Bill, I welcome it. I hope the hon. Minister, while replying, will go through the points mentioned by hon. Members and come before Parliament with another comprehensive Bill. With these words, I conclude. Thank you, Madam.

THE DEPUTY CHAIRMAN: Mr. Minister, I think he has raised a very important point that you give internet connection -- the Bill is before us -- but people don't get access to it because the gateway is very crowded. Most of the time, you will have to get dedicated lines like the cyber optics, etc. If they cannot get access, there is no use in giving a computer and an internet connection. So, you should apply your mind to this because if, on the one side, we develop it, and on the other side, we don't get the connection, there is no use. Sometimes, even our Members of Parliament keep trying for hours together, but they don't get the connection. So, you have to spend some resources in order to provide these infrastructure facilities. Even in the most developed cities, whether it is Mumbai, Hyderabad or Bangalore, there difficulties are there. They say that their connections are down and that they get stuck up. They don't get their e-mails, and they don't get internet connections.

SHRI K. RAHMAN KHAN: I just want to suggest one thing. Why not the Minister consider giving 64 KB or 128 KB lines only for the Members of Parliament so that they can get access to e-mail and internet connection without the dial-up line? Now we are thinking only in terms of the dial-up line, but there is a possiblity for us to have internet connection without the dial-up line, and it is not very costly also. It is much cheaper than the dial-up lines. So, I request the hon. Minister to consider this.

THE DEPUTY CHAIRMAN: We have that kind of facility in our Parliament. *(Interruptions)*

SHRI K. RAHMAN KHAN: It should be given to Members of Parliament.

THE DEPUTY CHAIRMAN: The Minister will find it difficult to give it to each and every Member of Parliament in their own cities. Unless and until we have a total, comprehensive, development, I don't think it is possible. I have been applying my mind to it and I find that it is not possible, unless and until we have an overall development and have our own dedicated satellites and lines. *(Interruptions)*

SHRI B.P. SINGHAL (Uttar Pradesh): Madam, the Sankhya Vahini Programme will provide a very wide spectrum.

SHRI R. MARGABANDU (Tamil Nadu): Madam, I welcome this Bill. I would like to point out certain difficulties in the existing judicial system. The objective of this Bill is to provide legal recognition to the transactions carried out by means of electronic data interchange and by means of other electronic connections. This Bill has come as an alternative to the paper-based methods of communication and storage of information. But the entire judicial system is only based on paper-based methods.

With this alternative, which is being introduced, I feel that many of the Acts, including the Civil Procedure Code, the Indian Evidence Act and several other Acts, have to be amended suitably. Without amending those Acts suitably, the objects of this Bill cannot be realised. I would like to know whether any attempt has been made to amend those Acts. Under clause 1(4) certain Acts have been specifically excluded from the purview of this Bill. According to clause 1(4), it is not made applicable to negotiable instruments, power-of-attorneys, trusts, wills and the documents or transactions notified in the Official Gazette. These are the specific exclusions. Clauses 43 and 44 mention about the ajudication of offences. Certain matters come within the purview of these clauses. The adjudication powers are restricted to the matters comprised in these two clauses. If the provisions of this Bill are applicable only to those matters mentioned in these clauses, how can the object of this Bill be realised? It should be an alternative. As has been rightly stated by the hon. Minister, sending the summons by e-mail or fax is not recognised under this Bill. The reason is

that there is no authentication for that. According to the procedures of the court, to verify the genuineness or otherwise of any document or any such thing, the original is expected to be produced. Even a certified copy is not permitted. A xerox copy is not permitted. The reason is that there is a possibility of fabrication or forgery of the documents. How can this difficulty be got over by this Bill? It is all the more dangerous. Under section 91 of the Evidence Act, a presumption of the genuineness of a document is drawn, if it is more than 30 years old. Such a safeguard is there. But by merely producing this e-mail and other electronic media communications and other things - I caution this Government and the hon. Minister to take note of this situation - there is a possibility of fabrication and forgery and they can come in the way of delivery of justice and destroy the possibility of justice to be given to a person, who is not at fault. This aspect has to be taken into consideration. The appointment of an adjudicating officer is contemplated under clause 46(3). It reads:

"No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government."

The adjudicating officer shall have the powers of a civil court which are conferred on the Cyber Appellate Tribunal, etc. An appellate provision is contemplated against the order passed by the adjudicating officer appointed under clause 46. The qualifications of the Presiding Officer of the Appellate Tribunal are contemplated under clause 50. It reads:

"A person shall not be qualified for appointment as the Presiding Officer of a Cyber Appellate Tribunal unless he--

(a) is, or has been, or is qualified to be, a judge of a High Court; or

(b) is or has been a member of the Indian Legal Service."

I believe, subject to correction, there is no such institution called the Indian Legal Service. There is only the Indian Judicial Service, not the Indian Legal Service, which is in existence. This should be taken care of. The other qualification given is, "is or has been a member of the Indian Legal Service and is holding or has held a post in Grade I of that service for at least three years." These are the only two qualifications contemplated for the Presiding Officer of a Cyber Appellate Tribunal. This Act deals with the

electronic media. Any person who is presiding over that institution must have computer knowledge. Unless he possesses computer knowledge, I feel, he may not be able to deliver the goods properly. So, computer knowledge is essential for the Presiding Officer. Besides, computer knowledge is also essential for the judicial officers in the civil courts, as also in the criminal courts, who are presiding over these courts, if these Acts are to be applied. Under the present system, that knowledge is not available to them. It should be made compulsory for them even at the time when they are studying law. Now, I come to clause 58(1). I am not able to understand it. It says "The Cyber Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure..". Every court proceeding is bound by the procedure laid down by the Code of Civil Procedure. But, here, it is an exclusion. It says "The Cyber Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice..." What are the principles of natural justice? They are not enumerated here. A free hand is given to him. God forbid, the Presiding Officer may not misuse it. There is scope for his adopting a different or some autocratic way in dealing with things. The possibility of this danger is also there. It should also be corrected. Now I come to clause 45 under which some penalty has been suggested. It says "Whoever contravenes any rules or regulations made under this Act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention..." This is the maximum penalty prescribed for any contravention. I feel, Sir, as it is rightly suggested by many hon. Members here, there should be a stringent punishment if any such damage is caused. There should be stringent punishment because it will affect the entire nation; not only the entire nation, but also the persons who are committing the offences. So, these are the precautions which are required to be taken into consideration by this House while passing these Acts.

श्री संजय निरुपम (महाराष्ट्र) : उपसभापति महोदया, मैं सबसे पहले आपका आभारी हूं कि आपने मुझे मौका दिया इस बिल पर बोलने के लिए। हमारे देश के पहले डाट काम मंत्री श्री प्रमोद महाजन जी को मैं बधाई दूंगा कि सचमुच एक बहुत ही महत्वपूर्ण विधेयक वे सदन में लेकर आए हैं। यह भविष्य का विधेयक है, भविष्य का बिल है। वर्तमान में शायद हम इसका इतना महत्व नहीं समझ पा रहे हैं। भविष्य में इसकी जरूरत महसूस होगी। लेकिन

यह भी सच है कि यह बिल एक अल्टीमेट नहीं होगा। मुझे लगता है कि इन्फर्मेशन टैक्नोलोजी के फील्ड में यह बिल एक शुरुआत है। अभी इसमें बहुत तरह के संशोधनों की जरूरत पड़ेगी। मैं इस विवाद में पड़ना नहीं चाहता हूं कि आखिर प्रमोद जी ने इस बिल के लिए इतनी जल्दबाज़ी क्यों की। ऐसा कहा जा रहा था कि इस पर और भी चर्चा होनी चाहिए थी। ठीक है, प्रमोद जी की ऐसी इच्छा थी कि जल्दी से यह बिल पास किया जाए। बिल की जरूरत है। लेकिन बिल की जरूरत किस वजह से ज्यादा है, यह मैं प्रमोद जी के सामने एक निवेदन रखना चाहता हूं कि क्या महज इन्फर्मेशन टैक्नोलोजी सैक्टर को रेगुलेट करने के लिए या इलैक्ट्रॉनिक ई-कॉमर्स को बढ़ावा देने के लिए या फिर साइबर क्राइम को रोकने के लिए यह बिल लाया गया है? मंत्री जी ने इसे इंट्रोड्यूस करते समय जो अपनी बात कही उसमें उन्होंने विशेष तौर से जोर देते हुए एक बात कही कि इलैक्ट्रॉनिक गवर्नेंस के लिए मैं यह बिल लेकर आ रहा हूं, ई-मेल को लीगल सैंक्शन देने के लिए मैं यह बिल लेकर आ रहा हूं। कल ही मैंने एक अखबार में पढ़ा था कि गल्फ कंट्रीज़ में एक मर्द ने अपनी बीवी को ई-मेल पर तलाक भेजा। कल के 'नवभारत टाइम्स' समाचार-पत्र के फ्रंट पेज़ पर यह सिंगल कॉलम स्टोरी है। यह इन्टरेस्टिंग स्टोरी है और उसको चुनौती दी गई है।

THE DEPUTY CHAIRMAN: Have they accepted it.

SHRI SANJAY NIRUPAM: Madam, it is *sub judice*.

THE DEPUTY CHAIRMAN: They will get married through e-mail.

श्री संघ प्रिय गौतम : तलाक हो सकता है। ...**(व्यवधान)**...

उपसभापति : अभी हुआ नहीं है। ...**(व्यवधान)**...

श्री राजीव शुक्ल (उत्तर प्रदेश) : ई-मेल पर बड़ी शादियां हो रही हैं। ...**(व्यवधान)**... अफेयर्ज़ ई मेल पर ही हो रहे हैं । ...**(व्यवधान)**...

श्री संजय निरुपम : तो लीगल सैंक्शन देने के बाद इसमें सब से बड़ा खतरा मुझे ई मेल का लगता है। हम राज्य सभा में अपने क्वेश्चन का नोटिस ई मेल पर भेज सकते हैं। मेरी जगह, मेरी तरफ से कोई और भी नोटिस भेज सकता है। पता नहीं उसका कितना अथंटीकेट कर पायेंगे।

उपसभापति : अभी हमने एक्सैप्ट नहीं किया।

श्री संजय निरुपम : ऐसा प्रमोद जी ने एक सुझाव दिया था कि आने वाले दिनों में ऐसी व्यवस्था भी हो सकती है।

उपसभापति : ऐसा नहीं होगा।...**(व्यवधान)**...

श्री प्रमोद महाजन : आपके सिग्नेचर होंगे, डिजिटल सिग्नेचर होंगे।

श्री संजय निरुपम : अब डिजिटल सिग्नेचर के जो साइड इफैक्ट्स होंगे उन्हें अभी तक तो किसी ने देखा नहीं है। पता नहीं आने वाले दिनों में क्या होने वाला है। डिजिटल सिग्नेचर का कितना दुरुपयोग होगा और किस तरह से दुरुपयोग होगा ? इस टैक्नॉलोजी एज में, साइबर एज में निश्चित तौर पर, ढूंढने वाले लोग, उसके भी साइड इफैक्ट्स निकाल कर लायेंगे। उसका कुछ न कुछ दुरुपयोग होने वाला है। उस दुरुपयोग को रोकने के लिए फिलहाल कोई व्यवस्था नहीं है। इसलिए मैंने कहा कि यह बिल तो एक बिगनिंग है। जब कोई दुरुपयोग निकल कर आएगा, तब प्रमोद जी उसको रोकने के लिए एक दूसरा बिल लेकर आयेंगे। इसलिए मैंने कहा कि ई-मेल से खतरे भी हो सकते हैं। ठीक है, आपने डिजिटल सिग्नेचर की बात कही है...**(व्यवधान)**...

श्री प्रमोद महाजन : बहुत धन्यवाद, मैं ही लेकर आऊंगा।

श्री संजय निरुपम : मेरी शुभकामना है, इस देश के पहले और आखिरी डॉट कॉम मंत्री आप ही रहें।

THE DEPUTY CHAIRMAN: You may have to bring it immediately, in the next Session.

श्री संजय निरुपम : मैडम, हमारे देश में अभी तक तो यह बिल नहीं था। बगैर बिल के, बगैर किसी सरकारी नियन्त्रण के, इन्फर्मेशन टैक्नोलोजी में जबर्दस्त विकास हो रहा था। काफी जबर्दस्त विकास हुआ है, जबर्दस्त ग्रोथ हुई है। ई-कॉमर्स में पिछले साल साढे चार सौ करोड़ का धंधा हुआ है। अभी जो टॉर्गेटड बिज़नैस है वह ढाई हजार करोड़ का है। बगैर किसी बंधन के, बगैर किसी नियंत्रण के, एक बिज़नैस इतना आगे बढ़ा, एक धंधा इतना तरक्की पर गया, इतना फैला, मुझे डर है कि शायद सरकार का नियन्त्रण स्थापित होने के बाद सब से बड़ा झटका कहीं ई कॉमर्स में न लग जाए। तो बगैर किसी कंट्रोल के, बगैर किसी नियन्त्रण के, एक फ्रीडम में, एक आजाद माहौल में, एक बिज़नैस इतने अच्छे ढंग से फैला। प्रमोद जी ने एक दिन क्वश्चन ऑवर में जवाब देते हुए बताया था कि हमको गर्व होता है कि हमारे देश का एक व्यक्ति दुनिया का दूसरा सब से अमीर व्यक्ति है। लेकिन उस को किसी सरकारी नियंत्रण की जरूरत नहीं पड़ती, किसी सरकारी कानून की जरूरत नहीं पड़ती। बगैर किसी कानून और बगैर किसी नियंत्रण के वह देश को इतना बड़ा गौरव दिला पाया। पता नहीं आने वाले दिनों में क्या होगा, आगे हम कैसे इस बिजनेस को, इस सेक्टर

को उतना प्रॉस्पेरस होने देने के लिए क्या कर पाएंगे, कैसे कर पाएंगे, अभी यह कहना मुश्किल है। अभी ई-मेल पर जो बड़े-बड़े बिजनेस हो रहे हैं, ई-कॉमर्स हो रहे हैं, बड़े-बड़े धंधे, लेन-देन चल रहे हैं, बड़े-बड़े एक्सचेंजेज हो रहे हैं, उसे देखते हुए अभी इस बिल में ऐसी कोई व्यवस्था नहीं है कि सरकार अपना रेवेन्यू कैसे कलेक्ट करेगी। इस में अभी सेल्स टैक्स का कोई रोल नहीं दिख रहा है। इस के अलावा जो इंटरनेशनल ट्रांजेक्शंस होंगे, फॉरेन एक्सचेंज का ट्रांजेक्शन होगा, उस दृष्टिकोण से भी इस में कोई महत्वपूर्ण व्यवस्था दिखाई नहीं दे रही है। इस बारे में भी हमें आगे चलकर कुछ-न-कुछ करना पड़ेगा। मैडम, साइंस एंड टैक्नॉलोजी मिनिस्ट्री की जो स्टैंडिंग कमेटी थी, उस का एक सुझाव था कि जितने वेब साइट्स हैं उन को रजिस्टर करिए। मंत्री जी ने कहा कि यह संभव नहीं है, लेकिन ई कॉमर्स के क्षेत्र में जितने वेब-साइट्स हैं, जितने पोर्टल्स हैं, वे बेसिकली एक तरह की दुकानें हैं। आप को जब पता ही नहीं होगा कि कितनी दुकानें हैं, उन दुकानों पर धंधा क्या हो रहा है, उन दुकानों में कितनी कमाई हो रही है तो आप कैसे पता करेंगे कि उन से सरकार को कितना रेवेन्यू मिल सकता है, मुझे लगता है कि इस की जानकारी फिर आसानी से मिल सकेगी। तो मेरा सुझाव होगा कि वेब-साइट्स को पोर्टल्स को स्पेशली ई कॉमर्स के क्षेत्र में अगर आप अच्छे ढंग से दखल देना चाहते हैं तो उन के रजिस्ट्रेशन की कोई-न-कोई व्यवस्था आप को आने वाले दिनों में करनी पड़ेगी और तब पता चलेगा कि सचमुच कुछ गलत तो नहीं हो रहा है।

मैडम, इस में सब से ज्यादा खतरनाक और सब से ज्यादा आपत्तिजनक प्रावधान जिस पर मैं ने अपना अमेंडमेंट भी दिया है, वह पुलिस की भूमिका के संदर्भ में है। उस के बारे में बहुत कुछ बोला भी जा चुका है। लोक सभा में लगभग हर सदस्य ने अपने भाषण में पुलिस की भूमिका के बारे में कहा है और हमारे सदन में भी इसी तरह की बातें कही गई हैं। मैडम, मैं चाहे डी.एस.पी. हो या इंस्पेक्टर हो, इस विवाद में नहीं पड़ना चाहता, लेकिन किसी भी पब्लिक प्लेस में विदाउट अरेस्ट वारंट वह एंटर कर सकता है, यह आपत्तिजनक है। मुझे लगता है कि इस प्रावधान के अंतर्गत व्यवस्था का दुरुपयोग होने वाला है। मैडम, एकदम से विदाउट अरेस्ट वारंट के एंटर करने की जरूरत क्या है, प्रमोद जी ऐसा आग्रह क्यों कर रहे हैं, यह मुझे समझ नहीं आ रहा है। अगर प्रमोद जी अपने जवाब के समय यह बताएं तो बहुत अच्छी बात होगी। मैडम, पब्लिक प्लेस में कुछ भी आ सकता है और सब से पहले आने वाला विषय अखबार, टेलिविजन और मीडिया एस्टेब्लिशमेंट है। इसीलिए मैं ने अमेंडमेंट दिया है कि पब्लिक प्लेस के साथ आप 'एक्सक्लूडिंग न्यूज पेपर ऑफिसेस' जोड़ दीजिए क्योंकि यह मामला सीधे प्रेस की आजादी से जुड़ा हुआ है और पुलिस वालों की क्या भूमिका रही है, क्या चरित्र रहा है, यह हम सभी जानते हैं और उस बारे में मुझे कुछ ज्यादा बोलने की जरूरत नहीं

है। पुलिस वाले कितनी ईमानदारी से काम करते हैं, बगैर किसी बाइसनेस के काम करते हैं, यह भी हम सभी जानते हैं। अगर किसी व्यक्ति ने या किसी अखबार वाले ने किसी पुलिस इंस्पेक्टर के बारे में कोई रिपोर्ट लिखी तो निश्चित तौर पर पुलिस वाले उस पर रिएक्ट करते हैं और कभी-कभी बहुत बुरी तरह से रिएक्ट करते हैं। इसलिए मैं माननीय मंत्री महोदय से निवेदन करना चाहता हूं कि आप इस में से न्यूज पेपर्स को छोड़ दें क्योंकि फ्रीडम ऑफ प्रेस की रक्षा करना हमारे देश की इस जनतांत्रिक व्यवस्था की बहुत बड़ी जिम्मेदारी है।

SHRI VAYALAR RAVI: I believe, this kind of crimes would attract only private places and not public places. Is it not?

THE DEPUTY CHAIRMAN: It is the other way round. As such, the newspaper offices are private offices. They are not public offices. Anyway, the Minister will answer.

श्री सजंय निरूपम : मैडम, मुझे नहीं लगता कि न्यूज पेपर ऑफिसेस को प्राइवेट ऑफिस कहा जाए। दूरदर्शन के ऑफिस को हम प्राइवेट ऑफिस नहीं बोल सकते। ...**(व्यवधान)**...

SHRI B.P. SINGHAL: You have got to take a permit to enter the Express building. It is their private place. It is a registered place.

THE DEPUTY CHAIRMAN: It is a private place.

श्री संजय निरुपम : ठीक है।

उपसभापति : आप तो एक्जेंप्ट हो गए, आप क्यों फिक्र कर रहे हैं। आप का पेपर एक्जेंप्ट हो गया, वैसे भी एक्जेंप्टेड था।

श्री संजय निरुपम : मैडम, दूसरी बात जो मुझे इस बिल के बारे में कहनी है, वह यह है कि आज कंप्यूटर का जमाना है और कंप्यूटर अपने आप में इतनी हायर टैक्नॉलोजी है कि अच्छे-अच्छे लोगों को यह समझ नहीं आता। हमारे हाउस के ही एक-दो माननीय सदस्यों ने बोला है कि हमें समझ में नहीं आया कि बिल क्या है। एक बार रामविलास पासवान जी जब सांख्यवाहिनी के मुद्दे पर जवाब दे रहे थे तो जवाब देते-देते बोल गए कि आजकल कम्प्यूटर को भी वॉयरल फीवर होने लगा है। जब मंत्रियों को नहीं मालूम है, देश के अच्छे-खासे पढ़े-लिखे लोगों को नहीं मालूम है तो पुलिस को कैसे कम्प्यूटर की सारी जानकारी हो सकती है । तो इस प्रावधान में अगर यह व्यवस्था की जाए कि Not below the rank of a Deputy Superintendent of Police, expert in computers. तो मुझे लगता है कि ज्यादा अच्छा हो सकता है, ज्यादा सुविधा हो सकती है।

2.00 P.M.

हैकिंग और जो तरह-तरह के साइबर क्राइम्स हैं, जो हमारे यहां वॉयरस वगैरह छोड़ देते हैं, उनको रोकने के लिए भी इसमें कोई बहुत अच्छी व्यवस्था नहीं दिख रही है, बहुत परिपूर्ण व्यवस्था नहीं है। इस बारे में भी नए सिरे से विचार करके इसमें कुछ नई चीजें जोड़नी पड़ेंगी, कुछ नए प्रावधान जोड़ने पड़ेंगे।

साइबर कैफे के बारे में कहा गया कि साइबर कैफे में कौन आ रहा है, कौन यूज़ करके जा रहा है इंटरनेट, इसका रजिस्टर मेंटेन नहीं किया जा सकता। मुझे लगता है कि आने वाले दिनों में यह एक बड़ी समस्या बन सकती है। मुम्बई में जो साइबर कैफे हैं उनमें मर्द या औरत जाते हैं और इंटरनेट पर सैक्स स्टार्ट करते हैं, घंटों करते हैं। आज तो आप बोलेंगे कि पसर्नल मामला है, करने दो, ठीक है, लेकिन आने वाले दिनों में यह विकृति एक विकराल रूप धारण कर सकती है। इस पर कहीं न कहीं कुछ चैक लगाने की व्यवस्था करनी पड़ेगी, जो नहीं है।

इस बिल में यह कहा गया है कि यह बिल हिन्दुस्तान या हिन्दुस्तान के बाहर कहीं भी लागू रहेगा। कोई भी व्यक्ति यदि हिन्दुस्तान से रिलेटिड किसी कम्प्यूटर सैक्टर पर क्राइम करेगा तो उस पर यह लागू होगा, मुझे नहीं लगता कि इस बिल के ज़रिए हम हिन्दुस्तान से बाहर कुछ कर पाएंगे। सिंगापुर में बैठा हुआ कोई व्यक्ति अगर हमारे कम्प्यूटर में वॉयरस छोड़ता है तो मैं नहीं समझता कि हमारे इस कानून के आधार पर सिंगापुर के उस व्यक्ति के खिलाफ हम कोई ऐक्शन ले सकते हैं। हमारे पास इतने बड़े-बड़े कानून हैं लेकिन कुछ नहीं होता। मुम्बई में इतना बड़ा बम-ब्लास्ट हुआ लेकिन मुम्बई बम-ब्लास्ट के जो आरोपी हैं, जो पाकिस्तान में बैठे हैं, जब हम उनको आज तक नहीं पकड़ पाए तो इस बिल के आधार पर मुझे नहीं लगता कि फॉरेन में बैठे साइबर क्राइम करने वाले लोगों के खिलाफ हम कोई कार्रवाई कर सकते हैं। मोटे तौर पर मुझे इतना ही कहना है।

अंत में मैं सिर्फ यह कहना चाहूंगा कि पेज नम्बर 22 पर जो मैंने सुझाव दिया है, एक अमेंडमेंट का प्रस्ताव रखा है, कि पब्लिक प्लेसिस के साथ जोड़ा जाए, एक तो उस पर सोचा जाए और दूसरा मेरा कहना है कि 81 में एक प्रोविज़ो जोड़ना चाहिए कि जो भी डी.एस.पी. या पुलिस अफसर उस प्रिमाइसिस में या पब्लिक प्लेस में घुसने जाता है तो पहले किसी भी कंपिटेंट कोर्ट के मजिस्ट्रेट को यह नोटिस देकर जाए, उनको इन्फार्म करके जाए कि हम इस जगह पर ऐंटर करने जा रहे हैं। यदि ऐसा होता है तो मुझे लगता है कि हम आने वाले दिनों में और इसके बाद इस प्रोविज़न का जो दुरुपयोग हो सकता है, जो खतरे हमें दिख रहे हैं, उन खतरों पर नियंत्रण पा सकते हैं, उन खतरों को टाल सकते हैं। बहुत-बहुत धन्यवाद।

THE DEPUTY CHAIRMAN: There are four more speakers. We were going to finish it at 2.00 p.m. क्योंकि इसके पश्चात शार्ट ड्यूरेशन डिस्कशन है, फिर 40-50 स्पेशल मेंशन हैं। डिनर तक तो कोई बैठना नहीं चाहेगा, लंच हम लोगों ने छोड़ दिया है इसलिए I would request everybody to be brief because a lot is being said about the clauses of the Bill, and the Members who have spoken are Shri Margabandu, Shri Rahman Khan, etc. So, you speak on something which has not been spoken on as yet. Actually, everybody is given two minutes. I have been very generous, as far as computer is concerned. Shri Sanjay Nirupam had two minutes; AIADMK had two minutes. Now, Shri Vayalar Ravi. The Minister is also required in the other House for some Bill at 2.30 P.M.

SHRI VAYALAR RAVI: Madam, I may not be able to speak within two minutes. So, I will refrain from speaking.

THE DEPUTY CHAIRMAN: You speak; there is no problem. Anyway, this is your last speech in this House. Then, you will be re-elected and then you will give your maiden speech.

SHRI VAYALAR RAVI : Madam, this legislation, as the hon. Minister has rightly pointed out, is a very important legislation. Moreover, in the 21st century, the technology is getting changed every minute. I don't want to elaborate on every issue. At the same time, the Minister is expected to clear certain doubts. I fully endorse what some colleagues have mentioned about the e-commerce aspect. Electronic commerce is going to be one of the major foreign-exchange earners and it is also going to cause a major improvement in the economy. In that respect, this enactment can protect the e-commerce in the country. The computer, the websites, the e-mail and so on have become a part of life, especially in certain sections of the society. These are in use in the entire country and throughout the world and people are being benefited by them. Now, I find one major lacuna which the Minister has to consider. I appreciate that he has conceded that this Bill will have further changes. Something appeared in the media that it is going to be more of a punishment. Yes, it is more of a punishment because certain regulations are going to come and violation of those regulations will lead to punishment. But in that punishment, unfortunately, there are two things about which there is no anxiety to protect the consumer. The consumer is the major component here. There are genuine

consumers and there are fake consumers. There are certain people who are determined to use it for mischief-making. They are not genuine consumers. But there are genuine consumers. So, what kind of protection is the Minister offering to those genuine consumers? Such consumers can also get into some problems. So far as section 43, for which I have given an amendment also, is concerned, it is clear here that there are two kinds of things about which Mr. Nirupam was also mentioning. There is an intruder or a trespasser. The hon. Minister knows how websites work. The web-surfer goes on searching and searching, link after link, and sometimes he may unknowingly get into private domains. He may get into private domains because there is no fire-wall or cyber-wall or any gateway. He may enter into a private domain unwittingly and then it becomes punishable. Of course, some people deliberately also enter into private domains. In such a situation, what kind of protection do you offer to such a consumer? This is one question I want to put to the hon. Minister. The other thing is about the access. Now, *mens rea* is also a crime. But, here, you are ignoring that part of basic law of *mens rea*. This need not be *mens rea*. This need not be the intention or the bad intention, but, yet, it can be a crime. (*Interruptions*) Now, access cannot be a crime. The Minister must consider this, not necessarily now, but he must look into this point whether access to a website is a crime or not. Access cannot be a crime, but its misuse can be a crime. You have to look into that point. Then, Mr. Nirupam has very rightly mentioned this. I also want the hon. Minister to look at clauses 28 and 29. I asked Mr. K. Rahman Khan also about the Income-tax Act. Now, clause 28(2) says, "The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on Income-tax authorities under Chapter XIII of the Income-tax Act...". This is one of the widest powers given to the Income-tax officers. So, clause 29 becomes irrelevant here. It is not merely a repetition, but it is irrelevant.

Mr. Nirupam also mentioned this point. So, I am only suggesting to the hon. Minister to either amend it or delete this clause. Then only these wide powers given to the Police Officers can be controlled to an extent.

The other point is, there is section 44. In that, there is a reference for denial of service. Service is also an important factor. Denial of service can be a crime. This word is used all over the world. But, here, you have not mentioned that point. The word 'service' is not mentioned.

Section 43(f) says, 'denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means.' But the word, 'service' is not there. Service is an important component. Denial of service can be used as a method to attack a service provider. A person would attack the computer system with a bogus request for information. What will you do then? His purpose is to prevent the genuine requests. This attack is called denial of service attack. In this Bill, this provision is missing. The denial of service attack is missing. I want the Minister to look into this.

There is section 66. I only request the Minister to recast the whole thing. The wordings can be interpreted in a hundred ways. The Minister should look at the wordings of section 67 also: 'Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious...' The dictionary meaning is, 'feeling, expressing or causing sexual desire.' For example, a nude photograph may not create a sexual desire. It may be appreciated.

THE DEPUTY CHAIRMAN: Mr. Vayalar Ravi, I never expected you to express such sentiments.

SHRI VAYALAR RAVI: I want punishment for pornography. Look at the word. It does not give room for any lawyer... *(Interruptions)* Mr. Jethmalani can argue.

THE DEPUTY CHAIRMAN: Why only Jethmalani? Why don't you take the name of Margabandu?

SHRI VAYALAR RAVI: Madam, I am afraid of the DMK Members. That is why I do not take his name. What I am saying is, the legal terminology must be used here. The lacunae can be easily overcome. He should re-draft the whole paragraph because there are enough clauses, if you look into it.

When I asked Shri Mishraji, he said that section 303 of the IPC was struck down by the Supreme Court. It is a serious one. Section 302 is applicable. But section 303, with regard to fundamental rights under article 14 of the Constitution, the Supreme Court has struck it down. Here too, the same thing is attracted because there are two punishments for one crime. There is repeat punishment. If you repeat the crime, the repeat punishment goes off.

SHRI GOPALSINH G. SOLANKI (Gujarat) : If a person is accused of a murder, and if he commits a second murder, if he is undergoing punishment for the first murder, then the repeat punishment goes off.

THE DEPUTY CHAIRMAN: Mr. Ravi, however interesting this discussion is for me, I am sure, for the Minister and the House, -- it is very enlightening - we will have to pass this Bill. I have still some more names with me.

SHRI VAYALAR RAVI: I am not asking him to accept my suggestion now itself. I am only asking to look into this aspect. He may go through all the speeches we made here. What I am suggesting is to re-draft the whole paragraph and use a proper legal terminology and mention the existing laws. There is a law, the Indecent Representation of Women Act. There is a law, the Young Persons (Harmful Publications) Act. These are all pornographic laws which are already existing. It is a legal matter. A police officer cannot say that he can arrest anybody and prosecute anybody. What I am suggesting to the hon. Minister is to look into all these aspects and see that this law is improved further and re-draft the whole thing, instead of rushing it through. Unfortunately, we are rushing through it at the fag end of the session. The only thing is, he can come again to the House with a comprehensive Bill in the next session. With these words, I conclude. Thank you.

SHRI M. VENKAIAH NAIDU: I hope the Minister will come back with improvement and he is also here.

THE DEPUTY CHAIRMAN: Shri Samadani. Everybody will have to be a little brief. I have learnt, for the first time, all the clauses of a Bill.

SHRI M.P.A. SAMAD SAMADANI (Kerala): I am not going into the clauses of the Bill. Instead of that, I would like to emphasize on some important aspects related to this subject, which is under the purview of the present Bill. There is no doubt that it is a revolutionary step. It is a revolutionary step when we consider it in the background of as our nation's progress and even human progress. I am reminded of what Mr. Bill Gates had said when he visited India. Mr. Bill Gates, when a reception was hosted at Mumbai, noted that a stage would come when computer literacy will be considered as a common literacy. I think we are approaching that stage, or,

that stage has already come. The present Bill is very important because it has taken into consideration the growth and India's march towards scientific and technological progress. Madam, the merits of this Bill have already been discussed. So, I do not want to repeat, but the legality of E-mail and e-governance, which is one of the cardinal principles of this Bill, will create a good impact in the coming period, especially on commercial growth, storage of information, electronic storage and electronic filing of documents. Electronic filing of documents is there even in some villages. It is there, if not in the whole country, at least, in some parts of the country. Madam, even some village offices are computerised. If a person approaches such an office for a document in regard to his property, it is available. I can say this, based on my personal experience, that some village offices in our State - Kerala - are getting computerized. Our Government is moving from the old method of having files in shelves and racks to a technological stage where electronic storage and electronic filing of information and documents are made possible. The use and misuse are the two important aspects. Both these aspects have been emphasized by the hon. Members who took part in the discussion. The misuse of computer and Internet and the misuse of this Bill, when it becomes an Act are matters of anxiety. I think both these things are inter-linked. It is a tragedy. It is a tragedy of the modern man, when everything which is founded for his progress, is misused. Anything that is discovered by his intellectual faculties is misused. Something will have to be done in this regard. We will have to think as to what is to be done to check this kind of a phenomenon. Here, in our august House, and also in the Lok Sabha, references have been made with regard to police interference and consumer protection; it is important. It is not a case with this law alone and I do not blame the Minister for this. It may not be coming, actually, under his purview. I wonder. I was shocked as to why the police are given so much power. In a civilised and a democratic country, human rights are more important and how to police the police is an issue we have to discuss.

At such a stage, when we are going so forward, when we have covered so many milestones of progress for the achievement of human rights, and realisation of human rights, why such a power has been given to the police that they can arrest anybody without a warrant? Such types of things have to be taken into consideration. I agree with the hon. Minister, Shri Pramod Mahajan, when he says that Saraswati is dominating over

Laxmi. That is true. But, at the same time, I would like to draw the attention of the hon. Minister and also the attention of this august House that knowledge is acquiring hegemony, power. The last century, the 20th century, coined its own dictum, its own word, its own technical term 'knowledge worker'. 'Knowledge worker' was one of the terms that was coined by the last century. We will have to disagree with this kind of terminology. There cannot be a phenomenon like 'knowledge worker'. The importance of knowledge cannot be degraded to such a standard. With the decrease in the standard of knowledge, I am reminded of a couplet of Iqbal, a renowned poet:

ये इल्म ये तदब्बुर ये हिकमत ये हुकूमत

ये सारे मुलूकानः ईजाद।

Knowledge, Government, administration, philosophy, thought, and everything, is open to slavery. So, I am afraid this will again... *(Interruptions)* Madam, the problem is that this also will open to another kind of slavery. Even the internet is opening new modes of slavery, and I request the hon. Minister and the Government to take into consideration this thing also. As Shri Kuldipji asked me, I will quote Iqbal again, "The modern man is facing a challenge that every science in the society is acquiring power. *(Time-bell)* Madam, I would take only one more minute. Science and technology will have to be controlled by a humanistic approach. If the scientists are set free, with their intellectual capacities. Madam, it was in the last century that the heart of a pig was transplanted in a man. So, if the scientific progress, the technological progress, is not controlled by a humanistic approach, it will be dangerous for humanity. I am again reminded of another couplet of Iqbal, which I quote, in conclusion:.

तारीख-ए-उमम का यह पयाम-ए-अज़ली है

कि नशा-ए-कुव्वत है खतरनाक।

It is a lesson from the very beginning of history that intoxication of power is dangerous. Here, power means not only political power, but any kind of power - cultural power, scientific power. At this stage of history, I would like to congratulate the hon. Minister. Bill Gates said that stage would come when computer literacy would be considered as common

literacy. Mr. Minister, you, the Government and we can be proud of the fact that we have taken into consideration that stage of human progress. Thank you, Madam.

THE DEPUTY CHAIRMAN: Mr. Samadani, you made a good speech. Now, I have three more Members who would like to speak.

Mantriji, the hon. Members are right that we should not give too much power to the police. I can give you an example. The policemen who are posted at the airport, who check our baggage, misunderstand a hair-drier as a revolver. If that is the standard of training, such a blanket power should not be given to them. If the same policeman goes to a cyber cafe, what will he understand?

SHRI PRAMOD MAHAJAN: Madam, this is a issue which is related to their training, not with the provisions of the Bill.

THE DEPUTY CHAIRMAN: Who will train them?

SHRI PRAMOD MAHAJAN: That is a different thing. I will reply to that.

THE DEPUTY CHAIRMAN: You have to answer.

श्री प्रमोद महाजन : मैं जवाब दे दूंगा मैडम।

उपसभापति : अभी जवाब देने में टाइम है मंत्री जी। अभी गोपाल सिंह सोलंकी जी हैं, राजीव शुक्ल जी हैं और प्रीतीश नन्दी जी ने एक जुमला बोलना है।

SHRI GOPALSINH G. SOLANKI : Madam, I will take just two minutes. I wanted to speak on some specific points, but those points have already been covered by Shri Margbandu, Shri Virumbi, Shri Vayalar Ravi and, particularly, by Shri Sanjay Nirupam.

But I am on the point of powers which are going to be delegated to the police officers, so far as the investigation is concerned. I would like to say about the use of the word, "public place" in Section 80. In all laws, the police has access to public places. They have to go; they can go. But so far as the question of private place is concerned, if they have to enter, they have to obtain a warrant from the authorised Magistrate or the Magistrate who is having jurisdiction in this regard. Madam, the second thing is that the police officers who are going to investigate these offences should be experts in computers. They must have the hardware and software

knowledge. The other thing that I would like to submit is about the Controller, the Assistant Controller and the Presiding Officer of the Tribunal because these people are going to deal with cyber laws. They must have complete knowledge and expertise in cyber laws. They must have the knowledge about the software laws also so that they can investigate and try the accused in the matter on which they are going to decide. Madam, I wanted to submit only these things.

THE DEPUTY CHAIRMAN : Shri Rajeev Shuklaji, you will have to be very brief.

श्री राजीव शुक्ल : मैडम डिप्टी चेयरपरसन, सबसे पहले तो मैं प्रमोद जी को बधाई देता हूं कि वे इस बिल को यहां लाए। जो इन्टरनैट यूजर्स हैं, जो इन्टरनैट सर्विस प्रोवाइडर्स हैं उनको इस बिल के द्वारा काफी एपोर्चुनिटी मिलेगी। लेकिन मेरी तीन एप्रीहेंसन्स हैं। आजकल बच्चे बहुत ज्यादा इन्टरनैट यूज कर रहे हैं। दस-दस साल, पन्द्रह-पन्द्रह साल, यहां तक कि पांच-पांच साल के बच्चे भी इन्टरनैट यूज कर रहे हैं। चैप्टर-11 के क्लॉज-67 में, अगर कोई बच्चा गलती से या उत्सुकतावश पोरनोग्राफी की साइट में चला जाता है तो क्या वह गिरफ्तार किया जाएगा, पकड़ा जाएगा, उस पर कोई एक्शन होगा? जब मैंने इसका पता लगाया तो पता चला कि वह टेल से पता लगा लेंगे कि कैसे उसने एक्सेस लिया और कौन आदमी अपराधी था। एक बात श्री संजय जी ने मीडिया, न्यूज पेपर और टेलीविजन के आफिस के बारे में उठाई थी और वायालार रवि जी ने कहा कि ये पब्लिक प्लेस में नहीं आते। उसकी भी अलग से क्लेरिफिकेशन हो जाए कि वहां तक पुलिस नहीं पहुंचेगी तो यह बहुत अच्छी बात रहेगी। दूसरी बात यह है कि डिजिटल सिग्नेचर कितने सत्य हैं, इस देश में नटवरलालों की कमी नही है। कब, कौन क्या कर गया, कुछ पता नहीं चलता है। इसलिए थम्ब इम्प्रैशन सबसे ज्यादा सत्य है। अगर थम्ब इम्प्रैशन को अपनाया जाए तो ज्यादा बेहतर होगा लेकिन इसका जवाब मिनिस्टर साहब देंगे कि डिजिटल सिग्नेचर कितना कामयाब हो सकता है? दो सुझाव भी थे- it can be duplicated.

THE DEPUTY CHAIRMAN : There are dangers.

श्री राजीव शुक्ल : एक बात यह थी कि एब्यूज आफ पावर्स, पुलिस आफिसर्स की बात सबने उठाई थी, चाहे डीएसपी हो या किसी भी लेवल का कोई और पुलिस आफिसर हो अगर वह एक्सेस सर्च करता है तो उसके लिए कुछ अमेंडमेंट लाना चाहिए। वैसे इस बिल में अमेंडमेंट लाना तो बहुत मुश्किल है, लेकिन मेरा एक सुझाव है कि जो रूल बन रहा है उसमें यह प्रोविजन कर दिया जाए, उस पर कुछ पैनल्टी लगा दी जाए कि अगर वह

डेलिब्रेटली करता है, जानबूझकर करता है, गलत ढंग से करता है, लोगों को परेशान करता है तो उस पर पैनल्टी लगा दी जाएगी, जैसा कि फेरा में यह प्रोविजन है। मेरे ख्याल से मंत्री जी अगर रूल में यह प्रोविजन कर दें तो बेहतर होगा। मेरा एक सुझाव है, यहां कोई भी कानून बना लें लेकिन यहां ग्लोबल लॉ तो है नहीं, उससे बाहर जाकर अगर कोई क्राइम करता है, उसकी बात नहीं पकड़ सकते। डब्लू.टी.ओ. में अगर हम ट्रेड्स पर ग्लोबल लॉ बना सकते हैं तो इंडिया को इन्टरनेशनल फोरम पर इनीशिएटिव लेना चाहिए। मैडम, आप तो डिप्टी चेयरपरसन हैं, आप तो समझती हैं कि इंटरनेशनल फोरम पर इंडिया को इनीशिएटिव लेना चाहिए कि कोई ग्लोबल लॉ बने, सारे कन्ट्री आ जाएं। अगर सी.टी.बी.टी. होती है तो उसके लिए ग्लोबल लॉ बनाना चाहिए।

THE DEPUTY CHAIRMAN : We are having a conference here. I had discussed with the Minister, with the Parliamentarians in I.P.U.

श्री राजीव शुक्ल : अगर ग्लोबल लॉ पर कुछ इनिशिएटिव लिया जाए तो बहुत अच्छा रहेगा। एक बात पर मुझे एतराज है जो शिवसेना के श्री संजय निरुपम जी ने उठाई है। यदि दो लोग आपस में बात कर रहे है, सैक्स चैट कर रहे हैं तो इसमें इन्हें क्या एतराज हो सकता है। क्या इसमें भी कोई बंदिश होनी चाहिए? तब तो आप कहेंगे कि दो लोग इश्क न करें, बात न करें, टेलीफोन पर बात न करें। सैक्स चैट पर आप रोक क्यों चाहते हैं?

श्री सुरेश पचौरी : ये बगैर बात किए सब कुछ चाहते हैं।

श्री राजीव शुक्ल : दो लोग अगर आपस में बात कर रहे हैं, सैक्स चैट कर रहे हैं तो इसमें क्या एतराज हो सकता है। मेरा खयाल है कि सैक्स चैट पर बिल्कुल रोक नहीं लगनी चाहिए। यह लोगों का आपसी मामला है। पब्लिक को इसमें मत डालिए। अगर दो लोग आपस में बात करते हैं तो इस पर कोई ऐतराज नहीं होना चाहिए।

THE DEPUTY CHAIRMAN: Mr. Pritish Nandy, you use internet, and that is why Mr. Sanjay told me that you want to add something. But we have a very limited time.

SHRI PRITISH NANDY (Maharashtra): Madam Deputy Chairperson, I thank you for giving me an opportunity to make one point. I want to make one point, and I will take a minute and a half. I hope that you will bear with me.

The challenge before any society, particularly a futuristic and forward-looking society, is how to ensure the freedom of its citizens and, at the same time, take adequate caution to protect itself. The skill lies in striking the perfect balance between Individuals freedom and State control.

Madam, information technology has been the fastest growing area of knowledge and endeavour in modern India in recent years. It has been this only because it was free, only because it was uncontrolled, because there was no Government intervention. It has created great wealth for modern India and produced more Indian millionnaires and billionnaires, even dollar billionnaires, than any other industry. For a short spell, we even had a Bangalore-based Indian, not a non-resident Indian, who was rated as the second richest man in the world. Information technology, in the short space of time, has democratised wealth, broken the monopolies and vested interests of traditional business families who controlled the old economy. It has given phenomenal wealth to young and accomplished professionals and, above all, most important, opened up a new, independent, low-cost means of communication. In this discussion, we have somehow ignored the last point.

It has opened up a means of communication that has challenged the oligarchy, the monopolies and the vested interests of the traditional media, be it newspapers, magazines or television stations. It has empowered independent journalists and made it virtually impossible to cover up, hide or sabotage truth. It has made the humblest human being capable of fighting back the brute callousness of the State and the corruption of mighty business empires just by opening up a new, alternative means of free communication.

Now, the state wants to intervene. In the name of fighting crime and controlling e-commerce, it wants to control, direct, and, if I may say so, manipulate, the medium of the future. I admit that aberrations occasionally take place. They take place anywhere. They take place as much in the virtual universe as in the real universe. But, it does not mean that we must destroy the medium of the future in anticipation of crimes that may or may not be committed.

Madam, the most important role of the internet is not e-commerce. It is not to commit crimes. It is not to have sex chats. It is not even to ensure e-governance, important as it may be.

It is to ensure communication between people, communities, nations. It is to educate, inform, help, heal, teach, support and encourage assist people. It is in its formative years, in its adolascence, right now. This is not really the time, in my view, Madam, for such heavy-handed State intervention. It is is the time for nurturance growth, encouragement, support, not for policing, not for punishing, not for taxing, not for the heavy hand of the State.

While I welcome some degree of regulation, my request to the hon. Minister is, Please leave internet alone from prowling policemen with or without warrants. Please leave it alone from rough neck, tax officers, from control freaks of the State. Allow this opportunity to flourish. This is the first time India has shown to the world that it has the talent, the technology, the wisdom, the knowledge and the expertise to take on the first world. Do not trample on it, do not harass, intimidate, threaten it, allow it to grow. It will bring India and Indians glory, wealth, information and greater freedom. Remember, it is the medium of the future which no robber baron can own, no State can control, no imperial power can subvert. Let us learn to live with this freedom and nurture it, instead of trying to tame it or legislate it so firmly, so harshly. Thank you.

श्री प्रमोद महाजन : उपसभापति महोदया, मैं सभी वक्ताओं का बहुत आभारी हूं कि उन्होंने एक ऊंचे स्तर से बहस की, जो बहुत ही ज्ञानवर्द्धक थी। यह विधेयक पारित करने के पहले हम जितने ज्ञानी थे, मुझे विश्वास है जिन्होंने सारी बहस सुनी होगी, विधेयक पारित होने के बाद सूचना प्रौद्योगिकी में हर व्यक्ति कुछ न कुछ नया ज्ञान हर व्यक्ति से लेगा, ऐसी स्थिति है। मैं आपका आभार मानता हूं जो आपने प्रीतीश नन्दी को ऐन वक्त पर अनुमति दी। उनकी अंग्रेजी इतनी सुंदर है कि मैं उनसे स्पर्धा भी नहीं कर सकता।

श्री संजय निरुपम : समझ लेते हैं?

श्री प्रमोद महाजन : समझ तो थोड़ा लेता हूं और इसलिए मैं कह सकता हूं यह बहुत अच्छी अंग्रेजी है।

हम इस बिल में ऐसा कुछ नहीं कर रहे हैं जो उन्होंने किसी आर्टिकल के ड्राफ्ट में कहा है। लेकिन उनको आपने अनुमति दी इसका मैं आभार इसलिए मानता हूं कि इसके कारण इस विधेयक पर चर्चा करने वाले व्यक्तियों की संख्या 13 हो गई और हम यह मानते हैं कि वाजपेयी सरकार के लिए 13 का आंकड़ा शुभ आंकड़ा होता है। इसलिए मुझे लगा कि एक शुभ आंकड़े से इसकी चर्चा पूरी हो रही है ..

THE DEPUTY CHAIRMAN: I am also born on 13th.

श्री संजय निरुपम : अब बिल आराम से पास हो जाएगा।

श्री प्रमोद महाजन : आप हर सीढ़ी पर क्यों चढ़ती जा रही हैं, इसके रहस्य का मुझे अब पता चला।

उपसभापति महोदया : neither I am a technocrat nor a lawyer.

जब मैं इस मंत्रालय का मंत्री बना तो मैंने थोड़ा कंप्यूटर का ज्ञान यहां पर सात-आठ दिन बैठकर प्राप्त किया। उसके बाद जब मैं मुंबई अपने घर गया तो मेरी बूढ़ी मां जो 70 साल की है, अनपढ़ है, उन्होंने पूछा कि तुम मंत्री बने हो, काहे के मंत्री बने हो। पहले वह समझती थी कि यह टेलिविजन का मंत्री है क्योंकि वह टेलीजिवन देखती है, तो मैंने कहा कि मैं कम्प्यूटर का मंत्री बना हूं, इसमें ऐसा है, वैसा है। हालांकि मुझे इसका बहुत ही कम ज्ञान है लेकिन यह बात उनके सामने रखने के बाद उनकी आंखों में आंसू आ गए और कहा कि बाप रे, तुम इतने ज्ञानी हो गए हो। जब उनका वाक्य समाप्त ही हो रहा था तो मेरी 17 साल की बेटी अंदर आ गई और कहा कि आप दादी को क्या बता रहे थे। मैंने उसके सामने भी बड़े अहंकार से वही बताया जो मैंने उसकी दादी को बताया था। सुनने के बाद उसने कहा कि मैं तो समझ रही थी आपको बहुत मालूम होगा। She gave me much, much. knowledge. This is the generation gap.

दादी से पोती तक यह प्रवास हो रहा है। हम लोग इस विधेयक द्वारा दादी की दुनिया को पोती की दुनिया में परिवर्तित करने का प्रयास कर रहे है। यह इसका उद्देश्य है। अब जैसे मैंने कहा, मैं वकील तो हूं नहीं और आज समय भी कम है, कल जब लोक सभा में चर्चा चली तो समय ज्यादा था। वकील तो मैं वहां भी नहीं था। लेकिन मैंने हिन्दुस्तान के सब से बड़े वकील अरुण जेटली को लगा दिया था कि तुम मेरा केस लड़ो, यहां लोगों ने बहुत कुछ पूछा है। उन्होंने बिना किसी फीस के मेरा केस लड़ा। लेकिन आज मैंने उनको यहां नहीं बुलाया है। एक तो 24 घंटे में मैं भी थोड़ा लायर बना हूं, इसलिए बुलाया नहीं है, जैसे मैंने कहा कि आज समय का अभाव है। किदवई जी ने बहुत अच्छा प्रारम्भ किया जब उन्होंने कहा कि हिन्दुस्तान की जो धरती है उसका पांच हजार वर्ष का इतिहास ज्ञान का इतिहास है और हम सब जानते हैं As far as IT is concerned, it is a digital economy which starts with 0,1; 0,1;0,1. हम सब जानते हैं कि शून्य का आविष्कार अपने देश में हुआ था इसलिए 50 प्रतिशत आई.टी. तो उसी दिन से तैयार हुआ जब हमने शून्य का आविष्कार किया। हमारी समस्या इतनी रही कि हम शून्य से आगे नहीं कर सके वह इसलिए कि एक के बाद शून्य लिखने से जो संख्या बढ़ती है, वह संख्या हम नहीं बढ़ा सके। इसलिए हमारा ज्ञान

तो बहुत है, वैसे हमारी भाषा में ताकत बहुत है। लेकिन हम कमज़ोर हैं अन्यथा संस्कृत जैसी कम्प्यूटर की वैज्ञानिक भाषा दूसरी नहीं हो सकती। आज तक अंग्रेजी चलती है। मैंने कभी कहा था संस्कृत और अंग्रेजी में अंतर इतना ही है कि अगर अंग्रेजी में मैं कहूं I drink water और अगर मैं कहूं water drink I तो दोनों का अर्थ बदल जाता है। अगर मैं कहूं drink I water तो हीरा अर्थ निकलता है। लेकिन संस्कृत जैसी प्रचुर भाषा में मैं अगर कहूं मैंने पानी पीया, मैंने पानी पीया या पानी मैंने पीया तो भी पानी मैंने पीया का अर्थ नहीं बदलता है। इसलिए, कंप्यूटर के लिए यह सबसे अच्छी है संस्कृत सबसे परिष्कृत भाषा है। अब किदवई जी के साथ मैं इतिहास में नहीं जाना चाहता हूं। लेकिन हमारे जो अचानक हमारे देश में ज्ञान का उत्थान दिखाई दे रहा है तो शायद हम पिछले दरवाजे से घुसने की कोशिश कर रहे हैं। सभी ने एक बात पर इस बिल की आलोचना की और वह है 79 जो पिछले विधेयक में था, अब यह 80 है जैसे मैंने कहा कि बहुत ही बढ़िया अंग्रेजी में नीतीश नन्दी ने भाषण किया, मेरे रौंगटे खड़े हो गये। मुझे लगा कि मैं तो मीसा-वीसा को यहां नहीं लेकर आया हूं जैसे मैं 19 महीने जेल में चला गया था। हां यह बात सच है - There is a clause, clause 80, which gives powers to a police officer to go into public places without a search warrant. Madam, I am shocked with the reaction of the Press and a few of my friends about this article, this clause, as if this is coming for the first time in any legislation of the country. As I said, I cannot take more time. I am not a lawyer. But I am just looking at the Criminal Manual containing the Cr.P.C. of 1973, the Indian Penal Code of 1986 and the Evidence Act and so on and so forth. I find in the Cr.P.C. sections 41 and 165. These two, put together, have the same rights which are given under clause 80 in this Bill. They came about 100 years before this. At least I have half a dozen laws at my right hand side, dealing with right from wild life to the FERA, which have almost identical provisions. So, this is not something new which I have brought to intimidate the Press. I have not brought anything new. This is a normal precaution taken.

Madam, the hon. Member, Prof. (Shrimati) Bharati Ray, was saying why I have not retained clauses 73 and 73(b). Thank God I have not accepted her suggestion. Otherwise, had I accepted her suggestion, I would have been considered the most draconian Minister in this Ministry. I thank you also, Madam, that you did not accept the deletion of clause 79, that is, clause 80 now. Even the Committee did not accept it. So, this clause, about which everybody is talking about and is feared about, is not coming into force for the first time in the history. In the last fifty years, we have passed one dozen laws which have hundred per cent an identical clause.

SHRI PRITISH NANDY: That does not mean that they are necessarily right.

SHRI PRAMOD MAHAJAN: I am not a civil liberty activist. I am a ruler and I know my problems. It is very easy for a civil liberty activist because he does not have control over crime.

श्री संजय निरुपम : प्रमोदजी, सौ साल पहले जो हुआ ...

श्री प्रमोद महाजन : हमको पूरा करने दीजिए ...(व्यवधान)... क्योंकि मेरे पास समय नहीं है।

उपसभापति : इंटरप्ट मत करिए। बोलने दीजिए।

श्री संजय निरुपम : सौ सांल पहले जो हुआ उसी को फालो करेंगे?

श्री प्रमोद महाजन : उसके बाद भी अलग मत हो सकता है वह आप रख सकते हैं। मैं आपको कोई थोड़े कह रहा हूं ...(व्यवधान)...

SHRI PRITISH NANDY: Someone had passed the TADA. But it does not mean that you will pass the TADA again.

श्री प्रमोद महाजन : इसमें टाडा का कहां संबंध आया। इसमें तो मैडम From the Cr.P.C. to the IT Bill, we are increasing the liberties of the citizens. We are not decreasing their liberties. If I remove this clause 80 at the instance of Sanjay Nirupam and Pritish Nandy, what will happen? If the House decides, I am ready to move an amendment to withdraw clause 80. But the moment clause 80 is withdrawn, section 41 and section 165 of the Criminal Procedure Code become applicable. Today I am giving this right to the Dy. S.P. in the hope that being a higher officer, he will behave properly. If I withdraw clause 80, the rights under this book will go to a constable. If the House wants me to do that, I won't mind. If the House, in its wisdom, wants...

श्री संजय निरुपम : विदड्रा करने को कौन बोल रहा है। विदड्रा करने को किसी ने नहीं बोला। उसमें एक संशोधन का प्रस्ताव रखा गया है।

श्री प्रमोद महाजन : आपके संशोधन पर मैं आता हूं। मुझे आने तो दीजिए ...(व्यवधान)... ठीक है चलो आधा तो परिवर्तन हुआ कि ऐसे कानून की जरूरत है। अब सिर्फ वह पत्रकारों के लिए नहीं है। यह एक अलग अपने आप में बात आ गयी। इसलिए जहां

तक बेसिक सवाल है उसमें I thank Sanjay Nirupam for that. Madam, in that event, we will have to start from the Cr.P.C. There can be some movement that right from the Cr.P.C. to the Wild Life, we change every law which has this kind of a provision. I don't mind that. But I do not know why my Bill is targeted. Let us start from the Cr.P.C. My Bill deals with the rich, sophisticated English-speaking people, who use computers. The Cr.P.C. deals with the poor people who do not understand as to what their rights are. So, you have to strike a balance between the civil liberties and taking away police rights, We should start with the poor people, we should start with the Cr.P.C. Let the House at some point of time deliberate and delete sections 41 and 165 from the Code of Criminal Procedure and then come to these great people on the earth who use computers. Not even 0.11 per cent of the population is using computers. Please try to understand that.

PROF. (SHRIMATI) BHARATI RAY: Will it increase the percentage in future?

SHRI PRAMOD MAHAJAN: Madam, you are sidetracking what I am saying. If you want to do it, you can do it. But I am not going to do that. The intervention of Prof. Bharati Ray shows that she does not want this clause. She wants me to include clause 73(a) and clause 73(b). She has referred to it during her speech that I should go to every ciber cafe... *(Interruptions)* Let us go further.

THE DEPUTY CHAIRMAN: Don't interrupt him. Let him finish.

SHRI VAYALAR RAVI: Clause 28 gives the authority for searches. Will he be in a position to take *suo motu* action or will he be able to do it after complying with the provision of clause 28?

SHRI PRAMOD MAHAJAN: Shrimati Bharati Ray has rightly said that in future also, the percentage of people engaged in the IT industry is not going to be up beyond 0.11 per cent. The future crimes will be cyber crimes. One has to debate this issue. As I said earlier, this is not the first legislation dealing with the crime. The Cr.P.C. deals with the crime. It starts with the Cr.P.C, not with my Bill. One has to decide as a country, as a society, and as Parliament that we have given a right to the police officer to reach there without a warrant. Under what condition? Suppose there is somebody who is collecting RDX on the early morning of 15th August to throw it somewhere near the Red Fort. If all of us want him to go to a

court, take its permission and then go, one can decide. But when you decide that, then come to my law. Don't start a civil liberty movement with my law. What do we expect? We expect that the police should go and raid there, and then catch him. There are two or three things, Madam. As I delete '80', it goes to CrPC, it goes to constables, it goes to hundreds and thousands of police officers. By bringing my amendment, I am raising the level to DSP. I am limiting the police interference level only to five or ten per cent of the police force, and not 90 per cent. I am deleting 90 per cent. At the same time, in all laws, we hope that police should not do excesses; if they do excesses, they should be punished. I agree with Mr. Vayalar Ravi that they should be punished if they do excesses. But here, we do not expect them to do. At the same time,, the Standing Committee has said that there should be a special task force to deal with that. The Standing Committee has said that at the DSP level, police should be computer savvy. These are things which cannot be covered in the Bill. I am going to write to the Home Minister of the federal Government, I am going to write to the Home Ministers of different States, that looking at the suggestion of the Standing Committee, one has to, as you have to educate everybody in computers, right up to M.Ps., be educated; the DSPs have to be educated. So, they will be educated. There is nothing draconian in it. Madam, you know that a cyber crime will create more problems than a normal crime. I gave the example. If somebody has created RDX and he comes to understand that the police is likely to come, it will take time for him to remove the RDX. But in a cyber crime, because it is a click crime, by the time you reach, the crime might have gone to 130 countries, money-laundering kind of a thing. What I am trying to say, Madam, is that we do not want to police it; we do not want to regulate it. That is not the basic of this law. The law which we are making it is to facilitate e-commerce, the law which we are making is to facilitate e-governance. We are going to e-society. That is the base. We are giving legal sanction to that, and not to the crime. Unfortunately, - I do not hold any brief for police, but--as the name "police" came, we were only thinking as if this law only deals with this. As I said, cyber crimes are likely to be there; like e-commerce, like e-governance, there will be a law to deal with an e-crime. I need e-police; that is all. I am not doing anything more than e-policing. But in e-policing, naturally, I will have to make the same provision, where one dozen laws in this country have already been made. So, there is nothing

draconian in it. Madam, now I will come fast. That is why I said, I have not, but somebody else has suggested, regulate the norms. Right from day one I became the IT Minister, I said, "No, I am not here to regulate." The day I became Minister, people said, "My God, now IT will not progress in this country." They said, "Look, there are two areas in this country where we were at world standards. One was IT and another was beauty only because there was no Minister for beauty; otherwise, we would have never had Miss Universe and Miss World!" Now an IT Minister has come! So, here I am not regulating anything. I am trying to facilitate things. As rightly said by Sanjay Nirupamji, if people have done 450 crores' e-commerce, and are likely to do e-commece in billions next year or the year next, and if some problem comes, who is going to give them the legal sanction? This is what I am giving. But unfortunately, as I said, the whole debate in the Press, outside and in both the Houses, has tilted as if there is one clause of policing kind of a thing. It is a small part of the preventive method which every law dealing with crimes in this country has taken from CrPC to wildlife; wherever a crime was anticipated, this clause was introduced. So, there is nothing new, nothing draconian in it. I would like to make it clear.

Now, Madam, there are a few suggestions. Some people don't want me to police but some people want me to raise the penalty. Now, I have already raised the penalty according to the suggestions of the Standing Committee. In some cases, we have raised the penalty from one million rupees to ten million rupees. हम ने 10 लाख से 1 करोड़ तक पेनल्टी बढ़ाई है और मैं नहीं समझता कि at this stage of the Bill, I can go on increasing it. Somebody made a suggestion - I would love to agree with that suggestion -- that the penalty should be equal to the loss. It is a contradiction that if loss is mine, I would like it. But if the penalty is mine, then, there is a problem. But sometimes, the IT loss, like the love bug loss, runs into several billions. Even if you kill the poor guy ten times, he will not be able to yield you several billions. I don't think any law says that the loss should be compensated with penalty.

THE DEPUTY CHAIRMAN: Yes, it is not realistic.

SHRI PRAMOD MAHAJAN: Penalty is not there to compensate. and penalty does not only mean money, there is jail also. दो साल जेल में जाने से क्या होता है, उस ने तो 50 करोड़ जमा कर लिए। With this mentality, nobody can control these things. so, I cannot accept these kinds of things.

About law, many suggestions have been made by everybody. I can only say that while framing the rules, we will definitely take care of all those suggestions. And we will definitely try to implement all those laws which are in tune with the Bill. As I said, many suggestions have been made in detail. We will try to implement them.

Somebody has asked about the Copyright Act. Shri Rma Muni Reddy also made various suggestions. I can only say that I have taken note of these suggestions. As far as the Copyright Act is concerned, we are going to change it. Some issues, whihc have been raised here, have got nothing to do with the Bill.

Shri Viduthalai Virumbi has asked about the implementation of the IT Task Force and also wanted to know about the amendment. madam, you also raised a very valid point. You have shown serious concern about the availability of enough band width. I appreciate you concern over the matter. it is right that if you are going on a road and if that road is not wide enough, then, all of us will not be able to use it. and if one billion population has to go on that road, the width of the road should be widened accordingly. Definitely, we will consider that suggestion, becasue a suggestion coming from the Chair is as good as a direction or an order. So, definitely, madam, increasing the band width will be our highest priority.

There is no conflict between my Ministry and the Communications Ministry. As somebody was saying, yes, I also foresee a convergence when the voice data and the video will come on one wire. That is why, in the other house, I had said that even though our internet penetration is 0.1; even though our telephone penetration is 2.6, our TV penetration is 30 per cent. If you add up all these, it come to 35 percent. We still think that America has a hundred per cent penetration and we only have 35 per cent. If you go in absolute terms, one billion population comes to around 35 crores in terms of penetration and the American population is less than that. If we go on increasing the internet connections, and if TV is also used as a two-way connection, then, we will be almost like any other big country having penetration. So, we have many problems.

There is another group of Ministers. Mr. Fali nariman, who is an hon. Member of this House, is also working on drafting the convergence. In short, I can say that the technology is changing fast. When the technology is changing fast, then, you will have to change the law, accordingly and

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when you have to change the law accordingly, you ought to commit a few mistakes in the initial stage. i really like this point that a comprehensive Bill must be brought. When I was in the Opposition I always said - this is a sentence from my speech - 'this Bill is a good Bill, but it is not a comprehensive bill.' But later, when I became the Minister, I learnt tht there is nothing like a comprehensive Bill because such a Bill, which will satisfy all the Members at a time, is yet to be drafted. law always goes on improving. I cannot have a last word on IT Law. As I said, this is the first word on IT law and with the experience that we will gain and with the suggestions of the hon. Members, if need be, we can go on improving it in future.

मैडम, समाचार-पत्र they are not public offices. तो फ्रेंकली समाचार-पत्र और दूरदर्शन में तो पुलिस के जाने का सवाल ही नहीं आता और वैसे भी टी.वी. और समाचार-पत्रों से हम भी डरते हैं तो पुलिस क्या हिम्मत करेगी उन के यहां जाने की। इसलिए उस बारे में चिंता करने की जरूरत नहीं है। मैडम, जो प्रेस की आजादी है, उस की सुरक्षा होनी चाहिए और मैं नहीं समझता कि इस बिल में कोई ऐसा प्रावधान है जो प्रेस की आजादी को खींचने की कोशिश कर रहा है।

उपसभापति : बढ़ा रहा है। Most newspapers have got their own websites. It is increasing their readership internationally.

श्री प्रमोद महाजन : जैसे राजीव जी ने कहा कि गलती से अगर बच्चा पोरनोग्राफी में चला जाए तो उसको इसमें सज़ा नहीं है लेकिन अगर वह बार-बार गलती से जाए तो हम छोड़ भी दें लेकिन...

उपसभापति : मां-बाप को सज़ा देनी चाहिए।

श्री प्रमोद महाजन : उसके माता-पिता को चिंता करनी चाहिए कि वह बार-बार ऐसी गलती क्यों कर रहा है, इसको और कोई साइट क्यों नहीं मिल रही, वह बार-बार एक ही साइट पर क्यों जा रहा है।

This is a social problem. I don't think the police or the Government can take care of it because with the advancement of technology, the crimes, cultural problems and the moral issues will always arise in any society. I don't think any piece of legislation can solve them completely. I always think that law is a negative thing. It only tells you

what not to do. What to do is always told by the parents, teachers and society leaders. They have to tell you what to do. The law doesn't tell you to do good things. The law tells you "don't do a bad thing, I will punish you". The law doesn't tell you about good things. So, Rajuji will take care of his kids. They can go to the Bhagvad Gita or the Bible or the Quran sites. They are also there. They can go there also. It is the responsibility of the society to take care of it. I am always worried when my daughter sits up to 2 O'clock or 3 O'clock in the night and she says, "I am on internet". Sometimes, I am really worried where she is and what she really is doing. As Lalitbhaiji has said, many social problems are created and we have to take care of them. I don't think any piece of legislation can take care of them. The society has to take care of them. The media have to take care of them. The parents have to take care of them. The teachers have to take care of them. The educational system has to take care of them. Definitely, it will create some problems than solving.

Finally, I may say, as I have said earlier, when I became the IT Minister, I tried to see the computer, open it and understand what is hardware, what is software, what is tangible and not tangible, etc. My friend and neighbour, Mr. Ahluwalia, is very computer savvy right from the beginning. Now I regret. I was his neighbour, but I didn't follow. Otherwise, I would have been a little better today. While I was trying all these things, I was told, "this is a mouse". I said, "why is it called a mouse?". We saw all sites on internet to find an answer why it is called a mouse. Nobody knew the answer. Somebody said, "Pramodji, it looks like a mouse and when you press it, it jumps like a mouse. That is why it is called a mouse". Today, I think whoever has named it as mouse has not done it by accident. Now the mouse is the vehicle of the deity of knowledge, Ganesh, of this country. Today, I think with the clicks on the mouse the Indians are likely to rule the world, as far as the IT sector is concerned.

THE DEPUTY CHAIRMAN : The name of Rama is also mentioned.

SHRI PRAMOD MAHAJAN: Madam, today I met a few people from the German Embassy. They want Indians. The Americans want Indians. The Singapore Prime Minister wants Indians. Everybody wants Indians to come to his country. Sometimes, I think gone are the days when

we were worried as to what would happen to India, if the foreigners come to this country. Now, the other countries are debating as to what will happen to their economy, if the Indians go to their countries. The other day we were worried about the East India Company. Now, this India IT company is likely to rule the world. This will be a very small but a firm step to make India the IT superpower in the next ten years. That is why, as I have said, I will take care of all the amendments in the rules, if they agree. I expect the House to pass it unanimously and request my friends to withdraw all the amendments, if possible. Thank you.

उपसभापति : प्रमोद जी, आपने सभी बातों का अच्छा जवाब दिया लेकिन एक बात का जवाब नहीं दिया। आई.टी. की मिनिस्ट्री तो बन गई है, ब्यूटी की मिनिस्ट्री का कौन मिनिस्टर होगा?

श्री प्रमोद महाजन : मैडम, जब तक आप चेयर में हैं, मुझे और कोई मंत्री मिलेगा नहीं।

THE DEPUTY CHAIRMAN: Thank you very much for the offer.

Now, the Minister is very patiently listened to and with a lot of passion he has asked for the withdrawal or not moving of the amendments. Are the Members going to comply his request? I request the Members to comply with his request.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Book Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

Clauses 2 to 28 were added to the Bill.

THE DEPUTY CHAIRMAN: Now, we will take up clause 29. There is one amendment by Mr. Vayalar Ravi. Mr. Vayalar Ravi, are you moving?

CLAUSE 29: Access to computers and data.

SHRI VAYALAR RAVI : Madam, I move:

(No.1) 'that at page 11, clause 29 be deleted.'

The question was proposed.

SHRI VAYALAR RAVI: Madam, I raised this point because there are two clauses, 28 & 29. Will the hon. Minister explain what is the necessity of having clause 29? Because clause 28 itself contains whatever clause 29 says. I said this because there is already a provision for search under the Income -tax Act. Clause 28 (1) says " The Controller or any officer authorised by him in this behalf shall take up for investigation any contravention of the provisions of this Act, rules or regulations made thereunder. (2) The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on Income-tax authorities under Chapter XIII of the Income-tax Act, 1961 and shall exercise such powers, subject to such limitations laid down under that Act." So, it gives them ample powers for search and everything. Clause 29 is only a repetition. It is not something of a technical nature; that is why I moved it.

THE DEPUTY CHAIRMAN: Clause 28 deals with 'power to investigate contraventions.' Clause 29 deals with 'access to computers and data.

SHRI VAYALAR RAVI: Both are same, Madam. The Income-tax Act, Mr. Rahman Khan knows it very well, the other lawyers know, gives all the powers.

THE DEPUTY CHAIRMAN: Every data in the computer has a password. It is protected in that way. You need permission to have access to the password, to get access to the computer data. I cannot have access to your data which you have put into your computer, till you allow me to have your password. So, perhaps, to protect that. That is what I understand because I use computer quite often. This is for that reason. You can go and investigate the books of accounts, etc. They are not in the code language. But, here, you need access.

SHRI PRAMOD MAHAJAN: Madam, if you look at clause 28 (2), it says, "The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on..." So, these are the general kind of powers. And if you look at clause 29, you will find that it gives some kind of specific powers, as far as computers are concerned. That is the difference between the two.

THE DEPUTY CHAIRMAN: That is what I said. You need a password to have access to it. Otherwise, you cannot have access to the data.

SHRI PRAMOD MAHAJAN: So, there are general powers in clause 28 and specific powers in clause 29.

SHRI VAYALAR RAVI: Then, I am withdrawing it. *(Interruptions)* I am not arguing. I have said only the technical matters. If I have moved it already, I can seek the leave of the House to withdraw it.

THE DEPUTY CHAIRMAN: Yes.

SHRI PRAMOD MAHAJAN: You have not moved it. So, you need not withdraw it.

SHRI VAYALAR RAVI: No, I have already moved it.

THE DEPUTY CHAIRMAN: He moved it. Actually, even the Chair told you that this was the reason. I think Parliament should teach you more computer. Does the hon. Member have the leave of the House to withdraw his amendment?

The Amendment (No.1) was, by leave, withdrawn.

Clause 29 was added to the Bill.

Clauses 30 to 42 were added to the Bill.

THE DEPUTY CHAIRMAN: Now we will take up clause 43. There are some amendments.

Clause 43: ***Penalty for Damage to Computer, Computer System etc.***

SHRI VAYALAR RAVI : Madam, I move:

(No.2) 'that at page 14, lines 44-45 be *deleted.*'

(No.3) 'that at page 15, lines 1 to 3 be *deleted.*'

(No.4) 'that at page 15, lines 11-12 be *deleted.*'

(No.5) 'that at page 15 line 11 *after* the word "access" the words "or service" be *inserted.*'

The questions were proposed.

I would like to explain one word. You have rightly said, Madam, that the access cannot be denied. Clause 43 (a) says " accesses or secures access to such computer, computer system or computer network". So it has become a penal clause.

I am insisting on clause 43 (b) which is about downloading. Everybody knows that our computer system is such that without downloading we cannot read it. When you search for something, when you enter somewhere, you have to download it and then only you will be able to read it. My next point is about clause 43 (f). I am stating a positive thing. I only want that after the word 'access' the words 'or service' be added. I explained it earlier also. It is accepted internationally that nobody should deny service. It is a crime. So denial of service should be added here. It is inevitable in every system. I want that in clause 43 (f) the words 'or service' be added. According to clause 43 (b) downloading becomes a crime. But without downloading you cannot read it. This is my only point. I am speaking with my limited understanding. The Minister can reply to my points.

SHRI PRAMOD MAHAJAN: Madam, I would like to say that we will study all his amendments. As I said, we have drafted and redrafted it 150 times. If something is found which is essential, we will do that. If he make an amendment today, I cannot go back to the Lok Sabha because then I will have to wait for months to get it passed. Therefore, I would request him to withdraw his amendments.

SHRI VAYALAR RAVI: Madam, I withdraw my amendments.

THE DEPUTY CHAIRMAN: Does the hon. Member have the leave of the House to withdraw his amendments?

Amendments No. (2,3,4 and 5) were, by leave, withdrawn.

The Deputy Chairman: Mr. Ravi, when you are reelected, you come to us and we will teach you how to download, how to access and how to hack also.

SHRI VAYALAR RAVI: Madam, as his daughter teaches him, my son teaches me all this

THE DEPUTY CHAIRMAN: We will teach you how to hack also.

Clause 43 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 44. There is one amendment by Shri Vayalar Ravi.

SHRI VAYALAR RAVI: Madam, I am not moving.

Clause 44 was added to the Bill.

Clauses 45 to 66 were added to the Bill.

THE DEPUTY CHAIRMAN: We shall take up clause 67. There is one amendment by Shri Vayalar Ravi. Mr. Vayalar Ravi, are you moving?

CLAUSE 67 - PUBLISHING OF INFORMATION WHICH IS OBSCENE IN ELECTRONIC FORM

SHRI VAYALAR RAVI: Madam, I beg to move:

(No. 7) 'that at page 19, clause 67 be *deleted*.'

The quesiton was proposed.

I want to put it on record. Since I have already explained it, I don't want to explain it further. Mr. Jaitley is also sitting here. I quoted a judgement of the Supreme Court in regard to Section 303 which has been struck down by the Supreme Court because of the compulsory hanging for a second offence in a murder case. We can go only by Section 302. Here if there is a repetition of the crime, another punishment can be given or the punishment can be enhanced. That is why I raised this point. I think this can be challenged in a court. That is why I have raised this matter. I hope the Minister would look into it. If he gives any explanation, I will withdraw it.

THE DEPUTY CHAIRMAN: This is a legal matter. I cannot give my advice. I can give my advice only on computers.

THE MINISTER OF STATE OF THE MINISTRY OF INFORMATION AND BROADCASTING AND MINISTER OF STATE OF THE DEPARTMENT OF DISINVESTMENT (SHRI ARUN JAITLEY): Madam, the former Chief Justice is sitting here.

SHRI RANGANATH MISRA (Orissa): Justice Chinnapa Reddy has overruled.....

SHRI ARUN JAITLEY: Section 303 - Compulsory hanging.

SHRI RANGANATH MISRA: That has been overruled by a five-Judge Bench.

SHRI ARUN JAITLEY: That is a different question. The only provision there was that in case you commit an offence, if you are already in prison, having been sentenced, the only penalty will be death penalty.

That is a different issue. Here the issue is if you commit the first offence, 'x' is the penalty. But if you repeat it and if you are habitual, the penalty is increased.

SHRI VAYALAR RAVI: Madam, I want to withdraw my amendment.

THE DEPUTY CHAIRMAN: Does the hon. Member have the leave of the House to withdraw his amendment?

The Amendment (No. 7) was, by leave, withdrawn.

Clause 67 was added to the Bill.

Clauses 68 to 75 were added to the Bill.

THE DEPUTY CHAIRMAN: We shall not take up clause 76. There is one amendment by Shri Vayalar Ravi.

SHRI VAYALAR RAVI: Madam, I am not moving.

Clause 76 was added to the Bill.

Clauses 77 to 79 were added to the Bill.

Clause 80 (Act to have overriding effect)

THE DEPUTY CHAIRMAN: There is an amendment by Shri Vayalar Ravi. Are you moving it?

SHRI VAYALAR RAVI: Madam, I want to say only one thing. The Minister argued his points so emotionally, and I understand the spirit with which he made his points. So, I am not moving my amendment.

उपसभापति : मिनिस्टर साहब, आप हाउस में इसी तरह बोला कीजिए। Mr. Nirupam, are you also impressed by the Minister's emotions?

श्री संजय निरुपम : नहीं मैडम, मैं अपना अमैंडमेंट मूव करता हूं।

उपसभापति : 10 और 11 दोनों अमैंडमैंट्स मूव कर रहे हैं।

श्री संजय निरुपम : जी हां। मुझे जरा अपनी बात कहने दीजिए।

उपसभापति : आप अपनी बात 10वें और 11वें अमैंडमेंट पर जरूर कहिए। आपने दो अमैंडमेंट दिये हैं।

SHRI SANJAY NIRUPAM: Madam, I move:

(No.10) "That at page 22, line 6, after the words "public place" the words "excluding media establishments, newspaper offices and Television Centres" be *inserted*."

(No.11) "That at page 22, after line 8, the following proviso be *added*, namely:-

"Provided that such officer shall be required to file the basis of his reasonable suspicion before a competent Criminal Court having jurisdiction of that area."

The questions were proposed.

मैडम, बिल पर जवाब देते समय माननीय मंत्री जी ने जिस तरह से टैम्पर लूज़ किया और जिस तरह से मंत्री जी गुस्सा हो गये, जिस तरह से उनका खून गर्म हुआ, उनके शब्दों में कहूं तो "This is not my problem, this is his problem." वह बार-बार बोलते हैं लेकिन मैं उनके शब्दों में नहीं बोलना चाहता हूं, मैं अपने शब्दों में बोलना चाहता हूं। उनका इस तरह से गुस्सा होना हमारे लिए चिंता की बात है। हमने उनको गुस्सा करने के लिए कोई बात नहीं कही थी। जिस तरह से वे चीख-चीखकर सारी बातें कह रहे थे, मुझे व्यक्तिगत तौर पर अच्छा नहीं लगा। हम इस बिल के खिलाफ नहीं हैं, मैं इस बिल के प्रोवीज़न के खिलाफ भी नहीं हूं। मैंने सिर्फ कहा कि इसमें कुछ ऐसी बातें हैं जो आने वाले दिनों में खतरा पैदा कर सकती हैं। अगर इसमें आप अमैंडमैंट कर देंगे तो उन खतरों से बचा जा सकता है। जैसा प्रमोद महाजन जी ने कहा कि अगर यहां पर मैं अमैंडमेंट कर दूंगा तो लोक सभा में भी करना पड़ेगा और मुझे वेट करना पड़ेगा। ठीक है, यह एक समस्या हो सकती है, इस समस्या को मैं समझ सकता हूं।...**(व्यवधान)**...

श्री प्रमोद महाजन : मैंने आपको नहीं कहा है। ...**(व्यवधान)**... मैंने अभी यहां कहा है।...**(व्यवधान)**...

उपसभापति : मंत्री जी को भूख लग रही होगी, सवा तीन बज गये हैं।

श्री संजय निरुपम : मैडम, भूख तो हमें भी लगी है।

उपसभापति : आप तो खाकर आ गये हैं, वह तो यहां पर बैठे हैं।

श्री संजय निरुपम : सबसे पहले उन्होंने कहा कि जो न्यूज़ पेपर के ऑफिसिज़ हैं, वे पब्लिक प्लेसिज़ नहीं हैं। पब्लिक प्लेसिज़ क्या सिर्फ भारत सरकार के दफ्तर ही हैं? क्या इंडियन ऐक्सप्रैस के ऐक्सप्रैस टॉवर में जो लोग आते जाते हैं, वे पब्लिक प्लेस नहीं हैं? क्या वह रामनाथ गोयंका साहब की पब्लिक प्रॉपर्टी है? मैं इस चीज़ को नहीं मानता हूं। हमारे "सामना" के ऑफिस में कोई भी व्यक्ति आ सकता है, कोई भी व्यक्ति जा सकता है - यही

पब्लिक प्लेस की सबसे बड़ी परिभाषा है। कोई सरकारी दफ्तर होने से पब्लिक प्लेस नहीं हो सकता। मुझे नहीं लगता कि इसमें कोई तर्क है। बैटर है कि आप पब्लिक प्लेसिज़ को डिफाइन कर दीजिए।

उपसभापति : मंत्री जी, डिफाइन कर दीजिए।

SHRI B.P. SINGHAL: I would like to say something, being an ex-policeman. The way the police has been unnecessarily maligned, I think it is a sorry state of affairs. Madam, the Police will not need a Cyber Act to do excesses; they have hundreds of other things...*(Interruptions)*

श्री दीपांकर मुखर्जी (पश्चिमी बंगाल): यू.पी. में ऐसा ही हो रहा है।

श्री भारतेन्दु प्रकाश सिंहल : ऐसा हो भी रहा है तब भी पुलिस ऑफिसर्स को हटाने की बात की तो जलूस के जलूस निकले कि मत हटाइए। They want the Police, but at the same time, they abuse the Police. What I want to say is, whether public or private, the Police can enter any place without any warrant.

उपसभापति : निरुपम जी, आप जल्दी से बोल दीजिए। ...**(व्यवधान)**....

श्री संजय निरुपम : मैं खत्म कर दूं फिर आप बोलिएगा। ...**(व्यवधान)**.... निश्चित तौर पर पुलिस वाले कैसे हैं, क्या हैं, यह सिंहल साहब से ज्यादा मैं नहीं जानता। मैं वकील भी नहीं हूं, मैं कानून की बात भी ज्यादा नहीं जानता लेकिन जो एप्रीहैंशंस हैं, दिमाग में जो बातें उठ रही हैं, उन बातों को मंत्री महोदय के सामने रखना कोई गुनाह नहीं है। मंत्री जी ने इस तरह से जवाब दिया जैसे हमने अपनी बात रखकर कोई गुनाह कर दिया हो।

उपसभापति : आपने अपनी बात मंत्री जी के सामने नहीं, हाउस के सामने रखी है।

श्री संजय निरुपम : ठीक है मैडम, आप जिस तरह से कहें! उन्होंने कहा कि प्रैस वालों से हम लोग बहुत डरते हैं। जब हम डरते हैं तो पुलिस वाले भी डरते हैं। वे भूल रहे हैं कि इस देश में पुलिस वालों ने प्रेस वालों पर कितने अत्याचार किए। पिछले पचास सालों में पुलिस वालों ने प्रैस पर कितनी बार अत्याचार किया है, इनको शायद मालूम नहीं होगा। इस कानून के माध्यम से भी, इस प्रावधान के माध्यम से भी प्रैस के ऊपर, फ्रीडम ऑफ प्रैस के ऊपर किसी न किसी तरह का हमला हो सकता है। इससे मैं उन्हें सावधान कर रहा हूं, अगर सावधान होते हैं और इसमें कोई अमैंडमेंट लाते हैं तो अच्छी बात है, नहीं लाते हैं तो सरकार उनकी हैं। वह मंत्री हैं, जो चाहते हैं करें लेकिन सरकार का ध्यान आकर्षित करना मेरी ज़िम्मेदारी है। मैंने अपनी ज़िम्मेदारी निभाई है और मैं अपना अमेंडमेंट सामने रख रहा हूं। सदन को जो निर्णय करना है वह करे।

THE DEPUTY CHAIRMAN: Now I will ask the Minister to reply.

SHRI PRITISH NANDY: Madam, his reply is very vague. In today's world, there are at least 13 sites on the internet.....

THE DEPUTY CHAIRMAN: Under which rule are you speaking? You have not moved any amendment. I have to put my foot down. Somebody has moved an amendment; only that person can speak. Like this, I can start another discussion. I have already a request from Dr. Raja Ramanna who is an expert on technology matters, but we have to finish the Bill.

श्री प्रमोद महाजन : मैडम, मैं दो बातें कहना चाहता हूं। अगर मेरी आवाज़ से या मेरे किसी शब्द से संजय जी को ऐसा लगा कि मैं गुस्से में हूं और उन्हें दुख पहुंचा तो इसका मुझे खेद है। मेरा कोई इरादा उनको दुख पहुंचाने का नहीं था।...**(व्यवधान)**...

श्री संजय निरुपम : अच्छी तरह से रिप्लाई आया, ऐसा लगा जैसे मैंने कोई गुनाह कर दिया हो, इसलिए मैंने इसको क्लीयर किया।

उपसभापति : नहीं, वे माफी मांग रहे हैं, उन्होंने कह दिया है।

श्री प्रमोद महाजन : मैडम, मैं इस बात का ध्यान रखूंगा कि मैं क्रोधित न होऊं। मैं क्रोधित हुआ हूं, संजय जी को ऐसा लगा है तो बाकी लोगों को कितना बुरा लगा होगा, इसका मुझे अंदाज़ा हो रहा है। मैं उसके लिए क्षमाप्रार्थी हूं। जहां तक उनकी अमेंडमेंट का सवाल है, क्लॉज़ 80 में नीचे एक एक्सप्लेनेशन लिखा है और उस एक्सप्लेनेशन में हमने लिखा है कि -

Madam, I will read Clause 80. "For the purposes of this sub-section, the expression

"public place" includes any public conveyance, any hotel, any shop or any other place intended for use by or acessible to the public." It is true that 'Saamna' has visitors, 'Indian Express' has visitors, Rajeev Shukla's television studio has visitors. But there, people do not go to that place as a right. I do not have a right to visit 'Saamna'. But if there is a hotel, it is a public place, I have a right to go.

आवाज़ बैठने के कारण मैं उसको ठीक से एक्सप्लेन नहीं कर पाया। मेरा यह कहना है कि किसी समाचार-पत्र के दफ्तर या दूरदर्शन के किसी केन्द्र में जाने का अधिकार

हमें नहीं है, उलटा वहां लिखा रहता है कि अनुमति के बिना मत आइए। किसी होटल के सामने ऐसा नहीं लिखा होता है, वह तो पब्लिक प्लेस है। As a right, we go to a public place. और इसलिए ये दोनों जो संस्थान हैं वहां पब्लिक जाती है लेकिन वे पब्लिक प्लेस नहीं होते हैं और इसलिए जो उन्होंने कहा है, मुझे लगता है कि पुलिस अफसर को किसी भी समाचार-पत्र के दफ्तर या दूरदर्शन के किसी केन्द्र में या किसी टेलीविज़न स्टूडियो में, जहां खासकर मीडिया काम करती है, बिना अनुमति के जाने का कोई प्रावधान इस क्लॉज़ 80 से नहीं आता है। इसलिए जो संशोधन उन्होंने दिया है, उसके मूलतः इसके भाव से एकरूप होने के कारण मेरी प्रार्थना है कि वे इस पर ज़ोर न दें।

THE DEPUTY CHAIRMAN: Does the hon. Member have the leave of the House to withdraw his amendments?

Amendments (No. 10 and 11) were, by leave, withdrawn.

Clause 80 was added to the Bill.

Clauses 81 to 94, were added to the Bill.

The First schedule, the second schedule, the third schedule and the fourth schedule, were added to the Bill.

Clause 1, the Enacting formula, the Preamble and the Title were added to the Bill.

SHRI PRAMOD MAHAJAN: Madam, I move:

'that the Bill be passed.'

The question was proposed.

SHRI VAYALAR RAVI: Madam, Clause 9 says, "Nothing contained in sections 6, 7, and 8 shall confer a right upon any person to insist that any Ministry or Department of the Central Government or the State Government or any authority or body established by or under any law or controlled or funded by the Central or State Government should accept, issue, create, retain and preserve any document in the form of electronic records or effect any monetary transaction in the electronic form." Why do you want this clause to prevent anybody from asking for transparency. It is only a doubt that I am expressing. Why should there be immunity for the Government?

THE DEPUTY CHAIRMAN: Which Clause are you talking about?

SHRI VAYALAR RAVI: I am talking about Clause 9. It causes transparency. I am only expressing a doubt. That is all.

THE DEPUTY CHAIRMAN: Mr. Pritish Nandy, you wanted to say something. While we are searching this clause, you can speak.

SHRI PRITISH NANDY: I am merely saying that there was a basic misunderstanding when the Minister said that he would have a more computer-savvy DSP looking at it, rather than a constable. The Internet has nothing to do with computers. I am sure Dr. Ramanna, being a technologist, would support this. A computer is just one of the many systems that can deliver the Internet. We could have it on a hand-held system; we could have it on a television screen. My argument is very simple. What is the nature of crime on the Internet? There are 13 sites on the Internet which teach you how to make a bomb.

THE DEPUTY CHAIRMAN: Which clause are you talking about?

SHRI PRITISH NANDY: Madam, I am just defining crime and the question of Police intervention. I am saying that there are 13 sites which teach you how to make a bomb. If a man like Dr. Ramanna visits the site, that is not a crime. If a journalist visits the site, that is not a crime. But if a terrorist visits that site, it could be a possible crime. How will you decide which Policeman can decide which man is visiting with what intent? My obsession with caution here is because you are leaving that judgment in the hands of those who are illiterate and incapable of making a decision, if the history of this country is any indication. And you are making people vulnerable to human rights violations.

THE DEPUTY CHAIRMAN: That is what I said that the Policeman checking at the airport does not know about the hair-dryer!

SHRI PRAMOD MAHAJAN: So far as the point raised by Shri Vayalar Ravi is concerned, the earlier sections 6, 7 and 8 give recognition to electronic communications. But section 9 says that these sections do not confer right to insist that documents should be accepted in electronic form. The person receiving it may not be trained to get it. Suppose tomorrow somebody may say that, as electronic communication is now recognised, and as this law has been passed now, he will send it through e-mail and the Government offices should accept it only in electronic form. Now, we are going through a transition period. They have to be trained and they have to be equipped to receive electronic communications. They may not have the

knowledge of a computer and, if it has come, how to retrieve it. So, if you just read it, it says that nothing contained in this article confers a right upon any person to insist that a Ministry of the Central Government or any authority should accept it because it is a two way communication; it is another way of communication. So, you cannot send it as a matter of right. Suppose I want to file my nomination. Now, it is allowed electronically. But unless the Election Commission makes a provision for it, I cannot insist that I will send it only electronically and that my application should be accepted. So, it is only an enabling provision.

Secondly, it is true what the hon. Member, Pritishji, has said. But the whole concept of this law is that somebody going knowingly and with an intention of committing a crime will only be punished. Somebody going accidently or because of curiosity doesn't have to worry about it. Sometimes you can go accidently or because of curiosity also. As a journalist, suppose you find out that there are these 13 sites which teach you how to make a bomb. That is not a crime. As a journlist, it is your duty to find it out and tell the people, as you have rightly said. Now, the question that he has posed, that question is not only before me or before the House, that question is before the whole world because the electronic crime will be a very different crime. The question is how we can cope up with this crime, how we can train our Police; that is a problem. I am sure that those who know about it - and in this case, Mr. Pritish Nandy and you also know much more about it - they should really guide us as to how we can prevent these types of crimes. But the intention of the law is not to punish somebody who goes accidently or who goes for education purposes.

THE DEPUTY CHAIRMAN: The question is:

'that the Bill be passed.'

The motion was adopted.

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) BILL, 2000

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Madam, I beg to move: